BEFORE THE PLANNING COMMISSION

OF THE

COUNTY OF KAUA'I

----------------------------------

In The Matter Of The Application ) USE PERMIT

of ) NO. U-2018-1

AES LAWA'I SOLAR, LLC a Delaware ) CLASS IV ZONING

limited liability company, for a ) PERMIT

Use Permit, a Class IV Zoning ) NO. Z-IV-2018-1

Permit, and a Special Permit for ) SPECIAL PERMIT

real property situated at Koloa ) NO. SP-2018-2

and Lawa'i, Kona, Kaua'i Hawai'i )

identified by Kaua'i Tax Map Key )

No. (4)2-6-003:001 (por.). )

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PUBLIC HEARING and SPECIAL MEETING,

Taken at Lihue Civic Center, Moikeha Building, Meeting
Room 2A-2B, 4444 Rice Street, Lihue, Kauai, Hawaii
96766, commencing at 9:03 a.m. on September 26, 2017,
pursuant to Notice.

REPORTED BY:

TERRI R. HANSON, CSR 482

Registered Professional Reporter
APPEARANCES

COMMISSION MEMBERS:
Kimo Keawe, Chair
Roy Ho
Glenda Streufert
Sean Mahoney
Wade Lord

ALSO PRESENT:
Michael Dahilig, Planning Director
Kaaina Hull, Deputy Planning Director
Jodi Higuchi-Sayegusa, Deputy County Attorney

For AES Lawai Solar, LLC:
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# INDEX

| Call to Order, Roll Call, Acceptance of Agenda | 4 |
| Opening Remarks by Mr. Dahilig | 4 |
| Opening Remarks by Mr. Hull | 12 |
| Opening Remarks by Mr. Belles | 21 |
| Comments by Commissioner Streufert | 120 |
| Comments by Commissioner Mahoney | 123 |
| Comments by Commissioner Lord | 124 |
| Comments by Chair Keawe | 125 |
| Recommendations by Mr. Hull | 126 |

**SPEAKER LIST:**

| Kathleen Johnson | 5 |
| Patricia Fallbeck | 7 |
| Kelley Phillips | 9 |
| Susan Kelsey | 11 |

**AES LAWAI SOLAR, LLC, WITNESSES:**

| Rob Cooper | 34 |
| Cameron Haughey | 40 |
| Brad W. Rockwell | 67 |
| Dennis M. Esaki | 86 |
| Hallett H. Hammatt, Ph.D | 88 |
| Theodore K. Blake | 95 |
| Jaap Eijzenga, M.S | 100 |
| Reginald E. David | 104 |
| Daryl W. Kaneshiro | 109 |

**EXHIBITS:**

**AES Lawai Solar, LLC:**

| 1 - 38 |

- Letters from Public (6 pages)
- Findings of Fact, Conclusions of Law, and Decision and Order

* * * * *
HEARING

(Call to order, roll call taken, and agenda approved.)

MR. DAHILIG: This a new agency hearing for action, Special Permit SP-2018-1, Use Permit U-2018-1, and Class IV Zoning Permit Z-IV-2018-2, to construct and operate a solar utility facility on a parcel located along the makai side of Koloa Road approximately 600 feet southeast of the Koloa Road and the Lawai intersection, identified as Tax Map Key No. (4)2-6-003 Parcel 1 and continuing with project area of approximately 196.33 acres of a 1,062.291 acre parcel.

The applicant is AES Solar, and they're the director to proceed for the matter 9/12/17 as well as supplemental information that was provided for the agenda.

Mr. Chair, the department would recommend opening the agency hearing at this time.

CHAIR KEAWE: We'd like open the agency hearing for this.

MR. DAHILIG: Mr. Chair, we do have three individuals signed up to testify at this agency hearing; Kathleen Johnson, followed by Patricia Fallbeck, followed by Kelley Phillips. Kathleen Johnson.

CHAIR KEAWE: Please step up to the desk
and state your name.

KATHLEEN JOHNSON: My name is Kathleen Johnson.

CHAIR KEAWE: There's a button on the top of the mic, push it up.

KATHLEEN JOHNSON: Hello.

CHAIR KEAWE: Hello.

KATHLEEN JOHNSON: My name is Kathleen Johnson, and I did submit a letter, and I was hoping to maybe get some answers to my letter before I spoke. But should I go ahead and speak now?

CHAIR KEAWE: Go ahead. You have three minutes, ma'am.

KATHLEEN JOHNSON: Okay. My questions -- one of my first concerns was in the application they mention the prior sugarcane fields and the present cattle grazing on the area. And I'm just curious why they did not mention the coffee fields that were there for about 13 years. And I was hoping to get a response to that today.

CHAIR KEAWE: Maybe you'll get a response when the applicant has a chance to make their presentation.

KATHLEEN JOHNSON: Right, yeah. Because I live right next door to the field. And when the coffee
fields were there, they did overspray the fields and actually killed the coffee plants, and that's a concern. I mean, there's, you know, human error, mistakes can be made. You know, the coffee plants were there for a dozen years, and then they oversprayed 'em.

And, you know, they said, Oh, bad soil. But, hey, they oversprayed 'em. And, you know, after that happened -- the next year after that, you know, 25 percent of the coffee plants died; and the year after that, another 25 percent of the coffee plants died; and the next year they abandoned the field. So, I mean, these things happen.

And in that regard, I know they're talking about having sheep graze on the land to keep down weeds. But until the facility is built and fenced and all, they will have to spray for weed control until everything is all established. And I do want to be notified when they spray.

I asked that of the coffee plantation, and they never gave me a call, never notified me. And I do insist that, you know, even if it's five minute's notice, that they notify me before they spray so I can leave.

And the other question is, you know, where -- you know, I've looked at the diagrams. They're very
hard to read. And my question is, where are the
inverters going to be located, and where are the power
t lines going to be located? 'Cause in my research, those
are --

MR. DAHILIG: Three minutes, Mr. Chair.

CHAIR KEAWE: Wrap up your testimony,
please.

KATHLEEN JOHNSON: Okay. So those are the
main health concerns, the inverters and the power lines.
And I guess the other concern is I heard that
excess electricity was going to be sold to Oahu. I
don't even know if this is possible. And that's
something I forgot to add in my letter, but I -- you
know, I know that they're going to be selling electric
to KIUC, but can they or will they be selling to Oahu
Electric?

CHAIR KEAWE: Thank you for your testimony.

KATHLEEN JOHNSON: Thank you.

MR. DAHILIG: Patricia Fallbeck, followed
by Kelley Phillips.

PATRICIA FALLBECK: Good morning. I'm
Patricia Fallbeck, and I live right next to the coffee
field that were the area there, and so we've got some
consc  

conc epts about what's going on. We're in favor of this

concept, and I was very pleased with the concerns that
were expressed for the environment and for the safety of
the people.

We were feeling a little uncomfortable about
supporting the whole project, though, until we could see
some exact blueprints. When we stopped at the planning
office, they said those things were not available, and
we just had the concept paper.

And so things that were not addressed in there
that we have some concerns about are any restrictions
for further structures on the property and how would we
be notified? And would we have a chance to give some
input into any changes or things that will come about in
that construction time. So I don't know how we would be
notified again. If the blueprints are available, would
we be able to look at those things?

And the concerns that we had about the -- I've
heard so many urban legends about solar farms and the
electromagnetic stuff disturbing the communications, the
telephone and internet and things of that nature. And I
didn't see that addressed, and I would like those
contents addressed.

CHAIR KEAWE: Thank you for your testimony.
We're hoping that all of your questions will be answered
shortly.

PATRICIA FALLBECK: Thank you.
MR. DAHILIG: Kelley Phillips.

KELLEY PHILLIPS: Good morning, Chair, Commissioners. My name is Kelley Phillips. I live with my family at 4141 Koloa Road and 4143 Koloa Road directly across the street from this parcel.

And although we're not adverse to solar and alternative energy, we do have some concerns about the scope of it and the transmission lines, distribution lines, poles and towers. Again, we're not -- we don't know where those are going to be located. We would like to know some more information, and we'd like to encourage the mitigation of visual and possible health aspects that may go along with those.

We have an issue about traffic. You know, Koloa Road is stressed traffic-wise as attested to by the poor condition of the pavement along the road, notwithstanding the recent patches that were made.

You know, my wife's family has been in our area for 104 years, her grandfather being an original homesteader in that area. During that time, as you know, it's been pineapple, sugar, coffee and now cattle. And PV is probably not a bad thing. It's just we're concerned about the scope and the visual impact, health impacts.

Traffic, you know, the traffic going in and
out, the entrance is right across from your property. And traditionally the only time when there's been a backup in traffic is when there's been chicken fights, but that doesn't happen too much anymore. But we would assume that there would be traffic going in and out, their trucks and whatnot, as this is developed. And I'm assuming, again, that once it's up and operational, there wouldn't be too much, but we're not too sure about that.

Two more things. I haven't seen the cultural piece, but I see the archaeologist. I think there's been a study. I would like to be able to see that. I don't think there's anything right across from our place because it's been in agricultural so many years.

Cleaning up, though, if you know the Kaupale and next to the Kumano, there is a heiau on the hill there, and that was documented by Bennett Archaeology of Kauai. So I'm sure that's -- the archaeologists are aware of that. It's not a significant one. One thing about Bennett, though, he did not have local informants. So he didn't have too much information on that heiau, but there is a structure there.

And the other last thing is Lawai, Omao, Kalaheo is in the rain belt. Is this really the right place? Brydeswood to Eleele, a lot of sun. So, but I'm
not an engineer or weather forecaster. But thanks for
the opportunity to testify.

CHAIR KEAWE: Thank you for your testimony.

MR. DAHILIG: Mr. Chair, that's all I have
signed up to testify on this agency hearing. The
department would recommend making a final call for any
further testifiers on this agenda item and close the
agency hearing.

CHAIR KEAWE: Anyone else wish to testify?
Yes, ma'am. Please step forward.

SUSAN KELSEY: Good morning. My name is
Susan Kelsey, and I live on Kiani Street. I like solar.
I like the idea of it. I, however, don't like the idea
of it in prime ag land. And this has been agricultural
land for years and years and years and years. They have
beef cattle on it. And, yes, I understand they're going
to run sheep. But really, how many people eat lamb
versus how many people eat beef. And you're going to
take 200 acres or so from beef, you know.

The rain belt issue is an issue. There are
sunnier areas. And it just seems like there may be some
other alter- -- other place that could put it; rooftops,
parking lots, you know, any kind of place other than on
prime ag land. And that's kind of all I have to say.

CHAIR KEAWE: Thank you for your testimony.
We'll entertain a motion to close the hearing.

COMMISSIONER: Chair, move to close the hearing.

CHAIR KEAWE: Do I have a second?

COMMISSIONER: Second.

CHAIR KEAWE: Moved and seconded to close the hearing. Any discussion? (No response.)

If not, all those in favor. (Ayes.)

Any opposed? (No response.) Thank you.

MR. DAHILIG: Thank you. Mr. Chair, we are now at action on this particular agenda item. Deputy Director Hull will be presenting the report on behalf of the department.

CHAIR KEAWE: Mr. Hull.

MR. HULL: Chair, Members of the Commission, the commissioners received the director's report as well as Supplement No. 1 and Supplement No. 2 to the director's report. I'll just go through -- at the Chair's discretion, I'd like to just go through a synopsis and read certain parts of the director's report. But since it's been already accepted for the record, I don't know if it's necessary unless you folks need me to read the whole thing.

CHAIR KEAWE: No. I was trying to read the whole thing.
MR. HULL: So as in the application, the applicant proposes to construct 28 -- a 28-megawatt solar generation facility encompassing approximately 196 acres of the subject property. In addition to the solar panel arrays, a 20-megawatt battery energy storage system and related interconnections with ancillary facilities are also proposed.

The solar facility will consist of solar panels mounted on single-axis trackers that will rotate along a fixed horizontal axis from east to west tracking the movement of the sun. All of the power generated by the solar panels will be directed to a new proposed electrical substation.

The solar project site will be surrounded by a seven-foot high chain link security fence. There will be a 25-foot buffer around the outside of the security fence. Interior access roads throughout the site will allow for access within the site to all major equipment, and the solar system will have an average height of 7.5 feet above the ground, and there will be aligned in rows a distance apart from each other between 18 and 25 feet.

Concerning the evaluation points, in particular the department would stress that the overall parcel will remain predominantly free of development and the
proposed structures will function in conjunction with
the overall agriculture use of the parcel.

The useable portions of the site will be leased
for pasture purposes at a rate or rates that are at
least 50 percent below the fair market value.

The proposed use will not interfere with other
agricultural uses that are generally allowed within the
agriculture zoning district.

Following the anticipated 25- to 35-year life
and operation of the solar facility, all equipment can
either be refitted with new equipment or will be removed
from the site and the site will be restored to its
pre-construction condition.

The existing vegetation on the subject property
should screen the proposed project site from being
visible from Koloa Road and the residential area
northwest of the project site.

If necessary to mitigate visual impacts, the
applicant does propose to install new landscaping around
the project area to further screen the site the from Aka
Road or Koloa Road.

The nearest residential structures are
approximately .25 miles northwest of the subject site,
and no significant impacts should be generated that
affect those residing on the closest residential
properties.

During operation, the solar panels will not make any noise. However, the inverters and transformers will emit less than 50 decibels at less than 10 feet. That noise level is considered not to be significant.

The proposed project is not anticipated to increase traffic impacts in the area. During construction, the applicant proposes to employ traffic control personnel to control traffic entering the northern staging area from the Koloa Road.

And for wastewater treatment and disposal, the proposed project will utilize individual wastewater systems approved by the State Department of Health.

For solid waste, the proposed project will dispose of solid waste at the county's transfer stations for disposal at the landfill.

And as discussed in the application's biological report, the existing state of botanical resources and wildlife have been heavily compromised by the past and present agricultural uses of the subject project. As a result, there do not appear to be any mammalian or avian species or botanical resources that will be negatively impacted by the proposed project.

As a result of significant agricultural cultivation in the past, the subject property has been
heavily disturbed, and there does not appear to be any pre-contact archaeological resources. However, nine post-contact historic resources have been identified, all of which are related sugarcane cultivation. The applicant proposes to follow an archaeological monitoring plan to mitigate any activities that could adversely affect these historic properties.

And finally on the evaluation point, the director's report does go into a little bit of the lacking in the application's submission of a cultural impact assessment. So I'll read the director's report. I'll preface it with that since the original director's report, the applicant has submitted full cultural impact assessment which will go into the Supplement No. 2 after I go over this. But the original director's report does state; the application states the applicant has to complete an analysis of the traditional and cultural practices occurring on or around the subject property. An analysis reflects that the proposed project will have no impact on any traditional or customary practices of Native Hawaiians.

However, based on documents submitted by the applicant, the department is unclear as to whether the applicant has provided sufficient evidence concerning cultural impacts given the standards established in the
Ka Pa'akai O Ka'Aina versus Land Use Commission, 94 Hawaii, year 2000.

In particular, the department is not able to determine that the applicant has identified whether any valued cultural, historic, or natural resources exist on the subject property area and whether any Native Hawaiian traditional and customary practices were exercised on the subject property area.

As such, the department cannot determine the extent that any resources and traditional customary practices will be affected by the proposed use and cannot develop any proposed feasible conditions to mitigate any such impacts.

As such, it would be advisable that prior to action, the applicant submit documents demonstrating that a proactive approach has been taken with the area's cultural practitioners to ensure that traditional or customary practices are not impacted.

And that's where the director's report kind of finally leads off with the conclusions being that it does not anticipate any negative impacts to the surrounding area, however, recommending that the applicant submit further documentation demonstrating a proactive approach cultural -- to reaching out to cultural practitioners in the area.
And as I stated, since that time, the applicant has submitted a full cultural impact assessment for which we review in our Supplement No. 2, which -- excuse me -- does find that there are no traditional and customary practices of Native Hawaiians including gathering or religious practices presently occurring on the subject property. There are no pre-contact cultural and historic sites or resources located on the subject property, and there are no known Native Hawaiian burials on the subject property.

In addition, a solar project will not detrimentally affect access to streams, to the shoreline, or to mountain areas. And they did, indeed, as I stated, proactively reach out and engage in cultural practitioners of this area. And I believe during their presentation, they'll be calling at least one of them for a witness.

So in reviewing that document, the department did move forward with a recommendation of approval, which you folks have attached to Supplement No. 1 on the director's report in which our conclusion is that in addition to the conclusionary points initially made in our first director's report, the solar project is in compliance with the provisions of HRS Chapters 6E and Title 13, Subtitle 13, Chapter 284 of the HAR.
The solar project is consistent with the provisions of Hawaii Revised Statutes Section 1-1 and 7-1 of the Hawaii State Constitution and will have no negative impacts on any traditional or customary practices of Native Hawaiians and that the solar project is consistent with the objectives and policies governing uses in the Coastal Zone Management Act as set forth in HR 205A.

And we do have a recommended 21 conditions of approval, which have been submitted to this body for their review. I wasn't going to go into them unless the commissioners wanted me to.

CHAIR KEAWE: No, we'll wait.

MR. HULL: Okay. And finally, you folks are in receipt of Supplement No. 2 to the director's report, which has a couple more agency comments that were received at the last minute, including Public Works Engineering, Office of Economic Development, as well as the State Department of Agricultural and State Department, Office of Planning.

While the State Department of Agriculture was in full support of the application given the documentation and consultation with Mr. Daryl Kaneshiro on his proposed agricultural operations on the site, the Office of Planning has a few recommendations in their
letter. And I apologize that we did not incorporate those into our supplemental, but we literally received them yesterday.

They do have a few conditions or recommended conditions which have already been met. So one of the conditions is that the applicant demonstrate that they are in compliance with the Coastal Zone Management Act, which was provided in supplemental documentation by the applicant.

And also -- the Office of Planning did also recommend that a cultural impact assessment be executed, which as we presented, the applicant has, in fact, gone through the agricultural impact assessment.

There are two additional conditions that the Office of Planning is recommending concerning flora and fauna. And if you are looking at their letter, it's in, as I said, Supplement No. 2, in Exhibit A, is the Office of Planning letter page four. They are recommending that the petitioner -- that a condition of approval also be adopted that states, The petitioner shall develop an endangered species awareness training module which shall include all potential endangered species that may frequent the petition area.

And they're also recommending a second floral and faunal condition that states, All construction
workers and solar facility employees shall undergo 
endangered species awareness training prior to starting 
work.

And the department has no objections to those 
conditions being recommended, and so we would verbally 
recommend that our 21 conditions of approval, add these 
two to be 22 and 23 respectively to amend the 
recommended conditions of approval and attach this as an 
order that you have folks have.

CHAIR KEAWE: So those would be two 
additional conditions that would be added?

MR. HULL: Correct. And we have consulted 
with the applicant. They have no objections to that as 
well. But they can go into that further in their 
presentation. But that is -- that concludes our 
presentation. So if you folks have any questions.

CHAIR KEAWE: Okay. Any questions for 
Mr. Hull? (No response.)

If not, can we hear from the petitioner. And I 
would ask, Mr. Belles, as your witnesses come up, if 
they could introduce themselves and explain their role 
in this petition.

MR. BELLES: Good morning, Mr. Chairman. 
For the record, I'm Michael Belles, representing the 
applicant, AES Solar. And, yes, Mr. Chairman, I will do
exactly as you request. We do have a witness list which identifies each one of the nine witnesses that we will be introducing today, and it generally describes the subject matter that they will be talking about.

And if it pleases the Chair, together with the concurrence of the planning director and the staff member, the deputy planning director, there are a few housekeeping measures I would like to be able to go through first to make sure that we have the record intact and that all the necessary documentation is received for the record.

And the reason I say this is we have three permits that are being applied for today by the applicant. We have pursuant to the county's comprehension zoning ordinance a use permit and a Class IV zoning permit.

But the one item that triggers a lot of procedural and quasi-judicial requirements and conditions is the special permit that is the final jurisdiction rests with the State Land Use Commission.

And for that reason, we have the person sitting to my left, which is a court reporter. We have an application that far exceeds anything that we've done before. And we've only done this once before in my 27 years in private practice and even 15 years before with
the county attorney's office, this is only the second
time we've had to have a court reporter and go through
the procedures that you're going to be dealing with
today.

So, again, I apologize in advance. I don't
want to give the impression that I'm trying to lawyer
this issue. It's just that we needed to get the record
to the State Land Use Commission in a form and substance
that meets their expectations and their legal
requirements.

It's just like when you deal with a zoning
amendment, as you know, you're advisory to the county
council. So too in this case you are advisory to the
State Land Use Commission. You'll be making a
recommendation to them with a decision and order that
you ultimately come up with, and then the State Land Use
Commission will be making the final decision about the
matter of whether or not this application for the
special permit will be approved. So I just wanted to
make that clear.

And again, apologies for the many machinations
and things that typically you do not have to suffer the
brain damage and the mind numbing exposure to. But in
this case, I don't have an alternative.

CHAIR KEAWE: I just want to make sure,
this was your choice.

    MR. BELLES: This is a legal requirement that we must comply with. And again, I wanted to apologize --

    CHAIR KEAWE: Thank you.

    MR. BELLES: -- to the commission.

    MS. HIGUCHI-SAYEGUSA: Chair, can I just clarify. Just referring back, I just wanted to double check with the LUC rules. It seems that there's approvals required from both the Planning Commission and the LUC?

    MR. BELLES: Correct.

    MS. HIGUCHI-SAYEGUSA: Okay.

    MR. BELLES: The Planning Commission is a recommendation only to the State Land Use Commission, and they are the final authority. And basically the responsibility of the commission is to assemble the record. Because the Land Use Commission makes its decision -- or it's confined or limited to making a decision on the record that you create today. And the record will be all the witnesses, the application, and all the other documents that have been filed relative to this case.

    MS. HIGUCHI-SAYEGUSA: Okay.

    MR. HULL: Yeah. And so just for
clarification because this is an actual discussion that
we had with the LUC staff as of recent. When this
commission last reviewed an LUC petition app for the
LUC, the department had drafted, as Mr. Belles has just
pointed out, as an advisory. So it was almost -- it was
drafted as a recommendation.

While the LUC ultimately acted on it, we were
somewhat corrected by the LUC to say that is an approval
action by the Planning Commission, not, per se, an
official -- like the official action is an approval or
denial of an action in that matter. But should the
commission approve, that approval functions as a
recommendation. But -- and so we had to somewhat draft
differently because the LUC kind of corrected us to
state, don't look at it as a recommendation in the
official wording. It's an official --

CHAIR KEAWE: So should the commission
approve, I mean, it's an integral step to final
approval?

MR. HULL: Correct.

MR. DAHILIG: And, Commissioner, just I
would like to refer you to this PDF page, just get over
to it. Page 529 of 562 PDF. Page 529. So there was a
draft decision of findings of fact, conclusions of law,
decision and order.
Ultimately if the commission chooses to act on the item today, we will need to have you adopt. And while there is some scrubbing that we may need to make adjustments to if the commission reaches that point, and we'll reach that discussion if the commission is ready to make a motion on the item. But there will be a couple of adjustments that we're going to make to the draft document being submitted for your review in order to transmit it seamlessly over to the Land Use Commission.

So just as a flag in the road down the line, if you do -- if the commission does reach that juncture and wanted to deliberate and act on this item today, we will need you to also clearly make a motion to adopt this draft order, as the commissioner suggests.

CHAIR KEAWE: Okay. Anything else, Mr. Hull?

MR. HULL: No.

CHAIR KEAWE: Mr. Belles.

MR. BELLES: Okay. In the beginning, first of all, we would like to establish and identify clearly for the record what is the record. We have a list of 38 exhibits that begin with the application and continue with a number of studies, reports, resumes, and various witnesses that are going to be appearing before you
today.

And the 38th exhibit was just drafted this morning in response to a request by Office of State Planning where they asked to identify the various classes of soil that exist on the land. And we broke it down into B, C, and D. That's what they asked us to do. And just for the record, the Class B soils we have 126 acres, Class C soils we have 45 acres, and Class D soils we have 25 acres.

And my partner, Mr. Graham, will be distributing this to the staff, to the court reporter, and for the commission's records and files. So that will be Exhibit No. 38.

The other thing I would like to ask is that the Planning Commission take judicial notice of all the records and files that exist in the file for this particular application. There have been numerous communications, letters, public witnesses like the ones today. They have previously submitted their testimony in writing, so that will all be part of the record.

And by taking judicial notice of this, this gives us the ability to make sure that everything you have in your records and files is available to the State Land Use Commission, in addition to the four or five inches that I have of documents in front of me today.
So if you could make that determination, I would appreciate that, Mr. Chairman.

MS. HIGUCHI-SAYEGUSA: Again, we would need a motion to receive all the documents that were transmitted as the record.

MR. BELLES: And then take judicial notice.

MS. HIGUCHI-SAYEGUSA: And take judicial notice.

MR. BELLES: Correct.

MR. DAHILIG: Just as a clarity, do you want to take that motion now or do you want to take it at the end of -- if you're presenting the test-- -- in the testifiers or any additional testimony to have the whole record be received at that point?

MR. BELLES: My preference, and this is not absolute, would be to at this stage at least identify the record as best as we know it now knowing that there may be some changes, and we can make those additions at the conclusion of the hearing, if it pleases commission.

CHAIR KEAWE: Commissioners, do you understand what they're asking? They would like us to approve and receive the record that have already been submitted, and then at the end we will, if it's approved by our approval, whatever else is added to the procedures?
MR. BELLES: If anything.

CHAIR KEAWE: If anything. Commissioner Streufert.

COMMISSIONER STREUFERT: Are we approving and accepting or are we just accepting?

MR. DAHILIG: Receiving.

CHAIR KEAWE: We're just receiving.

COMMISSIONER STREUFERT: So we don't have to accept it?

CHAIR KEAWE: No, no, no. We don't have to approve it. We just receive it.

COMMISSIONER STREUFERT: I move to receive.

COMMISSIONER: Second.

CHAIR KEAWE: It's been moved and received -- moved and seconded that we receive the records for this particular item. Is there any discussion on this item? (No response.)

If not, all those in favor. (Ayes.)

Any opposed? (No response.)

Motion passed away.

MS. HIGUCHI-SAYEGUSA: I'm sorry. Just to clarify once more, the additional request is to take judicial notice of -- I'm sorry. Could you repeat?

MR. BELLES: Of the entire records and files relating to this application, yes.
COMMISSIONER MAHONEY: Is that a separate motion?

MR. BELLES: That would be a separate motion yes.

MS. HIGUCHI-SAYEGUSA: Separate motion.

COMMISSIONER MAHONEY: Chair, move to receive -- or to take judicial notice of the record.

COMMISSIONER: Second.

CHAIR KEAWE: Well, there's a question.

Let's discuss this. Go ahead.

COMMISSIONER STREUFERT: Do we have any -- I'm not sure I have all their latest documents. Is there some way of identifying all the 38 documents that we're supposed to have?

MR. BELLES: If you want, I can read through the entire list. It's a page and a half.

COMMISSIONER STREUFERT: Can we have someone look at it? Are we sure that we have them all? If we're sure we have them all --

CHAIR KEAWE: Yeah, Mike.

MR. BELLES: Mr. Hull has a complete set of all the documents.

MR. DAHILIG: As I mentioned earlier, 38 is the second supplement. Here it is. So the item No. 38, which is the last item, will be circulated to the
commission as the testimony from the Office of Planning. If you look at this. So this is part of what, I guess, is essentially the end document of the litany of documents that have been submitted to the Planning Commission and the staff or moving over to the -- I think, you know, in terms of how they're -- it's tagged from an evidentiary standpoint. Like by Mr. Belles, you can see that set of, Commissioner Streufert, that big thick document here that's in front of Mr. Belles, that's actually in your iPad.

And then once what's coming up on the additional items that we hear, that will be submitted.

CHAIR KEAWE: Commissioner Streufert, are you okay?

COMMISSIONER STREUFERT: Yes.

CHAIR KEAWE: All right. We have a motion on the floor. All those in favor. (Ayes.) Any opposed. (No response.) Motion carried.

MR. BELLES: Thank you again, all, very much, and I really appreciate your patience and understanding in working with us through this ungainly process and one that's atypical like you're most familiar with. It's far more formal than I would like it to be, but it's just a legal requirement for us to
get the appropriate decision by the State Land Use
Commission at the end of the day.

AUDIENCE MEMBER: Point of order.

CHAIR KEAWE: Yes, ma'am.

AUDIENCE MEMBER: Could Mr. Hull move the
table so this half the room can see him?

THE VIDEOGRAPHER: Can't hear.

MS. HIGUCHI-SAYEGUSA: Mic.

AUDIENCE MEMBER: Just a point of order, I
would like to have Mr. Hull move the table, if that's
possible, so this half with the room can see him. I
have a hearing problem, and I read lips.

CHAIR KEAWE: Okay. What if we just move
the partition? Now you can see him, ma'am.

AUDIENCE MEMBER: Thank you.

CHAIR KEAWE: Mr. Belles.

MR. BELLES: Yes, Mr. Chair.

CHAIR KEAWE: Continue.

MR. BELLES: Okay. Thank you, as a
prefatory comment, I will say that virtually all the
questions that were asked by the public witnesses prior
to my coming here to the table will be responded to
either by the applicant in reference to documents that
are already in existence in the application or other
consultants and experts that we will be having as
witnesses later this morning. So -- and three of the four did previously submit written testimony. It did help us anticipating those questions and, therefore, incorporating responses appropriate to most, if not all, the questions.

CHAIR KEAWE: Okay.

MR. BELLES: The first witness I would like to call is Mr. Rob Cooper. He's the business development manager for AES Distributed Energy, AES Corporation, and AES Lawai Solar. And he'll be talking, telling you about who and what AES is, and he'll also generally be describing the development of the project.

CHAIR KEAWE: Mr. Belles, I assume these witnesses need to be sworn in.

MR. BELLES: Yes, they do, Mr. Chairman.

Thank you.

CHAIR KEAWE: Proceed.

MR. BELLES: Mr. Cooper, please come forward.

ROB COOPER,

after having been first duly sworn,

tested as follows:

ROB COOPER: I do.
CHAIR KEAWE: Thank you.

MR. BELLES: And before he starts, just for the record and those of you have access to your iPads and the documentation, Mr. Cooper's resume is found as Exhibit 17. So that will help give you a little bit of background about Mr. Cooper. But beyond that, I'll turn it over to him. He'll give you a brief history of AES, talk about the application and the project overview.

MR. DAHILIG: Mr. Cooper, just for the record, can you state your name and your address for the record.

ROB COOPER: Yeah. My name is Rob Cooper. My address is 1823 Hooker Street, No. 3, Denver, Colorado.

And as Mike said, I'm business development manager for AES. I'm responsible for the development of the project up to project construction commencement.

I, you know, just want to thank you, the Planning Commission, for your time today. I'm going to give an overview of AES. The AES Corporation is a Fortune 200 global power company founded in 1981 focused on energy generation of all types throughout the world. We have over 37,000 megawatts of generating power plants in 17 countries and a work force of 19,000 employees.

Of that overall generation, 7,000 megawatts of
those are renewable with solar, energy storage, wind and hydro. And AES has a long-standings presence in the state of Hawaii through it's ownership and operation of a power generating facility on Oahu for the past 25 years.

And I work for a division of AES called AES Distributed Energy, which is focused solely on development and operation of solar and solar plus storage facilities just like this one.

And then a separate entity, AES Lawai Solar, LLC, was created specifically for this development project and is hundred-percent owned by AES. This is common practice for projects like this and is required primarily for the financing of the project with outside lenders.

And a little bit about the project. We're proposing to construct and operate a solar plus battery energy storage facility with 28 megawatts of solar panels. The solar panels will be combined with an energy storage system so that a majority of the solar output during the day can be shifted and later discharged to the non-daylight peak powers.

The solar panels will be mounted on a single-axis tracking system which will rotate east to west as the sun moves across the sky, which actually
increases the energy output of each panel by up to 20 percent over a standard fixed system.

And the battery energy storage system is 20 megawatts with five hours of duration of battery, with a total of 100 megawatt hours of total capacity.

The battery system will containerized in modified shipping containers which will house the battery cells, the electrical wiring, HVAC and the fire protection system. And these battery containers will be located on eight power blocks which are distributed throughout the overall site.

The proposed facility will interconnect to and deliver power to the Kauai Island Utility Cooperative. AES and KIUC have an executed 25-year power purchase agreement and interconnection agreement whereby KIUC will purchase all of the power generated by the facility and control when the energy is dispatched from the batteries.

The PPA and the interconnection agreement were both recently approved by the Hawaii Public Utilities Commission.

And AES was selected by KIUC for this project through a competitive bid process which began last year, and we responded to a request for proposals. And Brad Rockwell from KIUC will elaborate further on that during
his testimony.

As previously mentioned, the facility will be located up to 196 acres of land located in Lawai. The land was chosen by KIUC through its RP process and is well suited for this proposed subject for several reasons.

One, well-suited topography for required minimal site work. Its insulated and natural vegetative screening will provide minimal visual impact to neighboring properties. And there are existing transmission lines already running through the site which will provide ease of interconnection and negate any need for any new power poles to be constructed on the site.

The facility will be located within a larger approximately 1,000-acre parcel owned by McBryde Sugar Company. McBryde and AES have executed a grant easement agreement for the use of the 196 acres for the construction and operation of the proposed facility for the term of the power purchase agreement.

At the end of the PPA term and the project life, AES will decommission the facility, which will include removing all of the equipment and returning the land to substantially the same condition as the original condition.
AES will deliver to McBryde a financial removal security which will be maintained for the entirety of the project, ensuring that the decommissioning is completed.

And I'm done. But I'm going to pass it on to my colleague, Cameron, who's responsible for the construction and operation of the facility, and he will touch on a few more important aspects of the project. Thank you.

MR. BELLES: Mr. Chairman, I have no more questions for Mr. Cooper. He's available for any cross-examination by the department or the Planning Commission.

CHAIR KEAWE: Commissioners, do you have any questions?

COMMISSIONER LORD: I have a question.

ROB COOPER: Yes.

COMMISSIONER LORD: You had said that the units or the infrastructure for storage was located in several areas around the site, is that correct?

ROB COOPER: Yeah, distributed throughout the arrays. So it's not all of the battery blocks are in one location. They're kind of distributed throughout the array on eight different energy blocks which are all accessible by internal roadways. And Cameron, who's
coming up next, will actually show the map and show
where each of those will be.

COMMISSIONER LORD: I'll wait to see that.

Thank you.

ROB COOPER: Yeah.

CHAIR KEAWE: Mr. Hull, do you have any
questions for this witness?

MR. HULL: The department has none.

CHAIR KEAWE: Anyone else? I have a
question, it's technical. Should I wait for the
engineer guy?

ROB COOPER: I think after Cameron we can
collectively answer.

CHAIR KEAWE: All right. Thank you.

AUDIENCE MEMBER: Can we ask a question?

CHAIR KEAWE: No, ma'am.

AUDIENCE MEMBER: Okay.

CHAIR KEAWE: Go ahead.

MR. BELLES: Thank you very much,
Mr. Chair. We'll take our second witness. We're
actually going at a more rapid speed than I expected,
which is good for everyone, I think.

The second witness will be Cameron Haughey.
He's the EPC project manager. And if there are some of
you who don't know what an EPC project manager is, if it
makes you feel any better, neither my partner, Max Graham, nor I knew that. And Mr. Graham is a Notre Dame graduate in engineering. So we Googled it, and it stands for engineering, procurement, and construction.

So he's basically here for the life of the project to make sure it's up and running and will manage it. So I'd like to call Cameron Haughey as the next witness, please.

CHAIR KEAWE: How do you pronounce his last name, Mike?

MR. BELLES: Hoi. And I made sure I cleared that up because it's spelled H-a-u-g-h-e-y, and like my name, it's pronounced many ways. And I don't bother correcting anybody anymore.

CHAIR KEAWE: Okay. Mr. Haughey, can you step up. We need to swear you in.

CAMERON HAUGHEY,

after having been first duly sworn,

testified as follows:

CAMERON HAUGHEY: Yes.

CHAIR KEAWE: Thank you. Could you please state your name and address for the record.

CAMERON HAUGHEY: My name is Cameron
Haughey. I live at 7382 Buckingham Court, Boulder, Colorado.

CHAIR KEAWE: Okay. Proceed.

MR. BELLES: Mr. Chairman, if I may impose on the commission just for a few-minute recess. The reason being that we would like to set up for a PowerPoint presentation.

CHAIR KEAWE: We were about to do a break at 10:00. We can take it now.

MR. BELLES: Okay. I appreciate it. Thank you very much.

CHAIR KEAWE: Why don't we take about a 15-minute break to allow them to set up their presentation.

MR. BELLES: Thank you so much.

CHAIR KEAWE: Thank you.

(Break from 9:50 to 10:04.)

CHAIR KEAWE: We'd like to reconvene the meeting, please. Mr. Belles.

MR. BELLES: Okay. Thank you again, Mr. Chairman. Again, for the record, Mr. Haughey's resume is Exhibit 18, and what we've labeled as the video tour simulation, which will be the PowerPoint presentation, which we will be having right now. That will be Exhibit 31. And I'll turn it over to
Mr. Haughey.

CHAIR KEAWE: Proceed.

CAMERON HAUGHEY: First, thank you for having us today, and I'm honored to be here and given the opportunity to do this project. Can we dim the lights just a little bit more. I wanted to start out with an orientation. One moment while I set up.

It's a little dark. All right.

All right. Again, my name is Cameron Haughey.

I'm responsible for the engineering, procurement, and construction of the project. I wanted to start out with just making sure everyone was aware of the actual project site. So I wanted to pull up a map here to show some landmarks, and then we're going to go to a short video, a virtue flyover, and I'm going to highlight a few features of the project and the construction.

So the project site's right here. These are the blue solar panels. Just north of the array is the Kaneshiro Ranch. Let's see. We have the botanical garden. That is just to the south. Kukuiula resort, and we have New Mill of the Kauai Coffee Plantation visitor center here. I'm going to start the video.

(Playing video.)

CAMERON HAUGHEY: As we fly over the site, the solar panels are the blue areas, the construction
areas are yellow. And the power blocks --

THE VIDEOGRAPHER: Mic. Can't hear you.

CAMERON HAUGHEY: The distributed power blocks were just shown and that substation area. We'll fly in and see the north access road, that's Koloa Road. That's how you can access the site from the north.

We have a southern access road, which is using the existing cane haul roads. This keeps us out the Aka community area and that entrance.

We'll be entering here on Route 540, which is the southern construction entrance. This keeps us away at minimal disturbance to the neighborhoods.

Coming back to the north construction entrance, and now the temporary construction areas. You'll see them labeled 1, 2, and 3; 1 and 2 are about 10 acres.

That's the southern construction area, staging area. And again, the north temporary construction staging area two. I show this area as 3 as kind of a plan B, if needed, but I think the 20 acres will be sufficient.

This is an internal roadway. There's four of them. They provide access to the site. Another feature is that all the trackers and solar panels that you see here are directed to each internal road. That's due to the fact that there's no inter-row electrical trenching.
All wires are integrated into the tracker, flow down to the internal road, and trenching is along the roadside. So it's minimal disturbance to the land. Basically the roads -- the trenching along the roads and the power blocks.

This is existing power transmission lines, and the KIUC substation sits right there. AES will be right next to it, and the interconnection point is underground. Basically throwing the wires underneath the ground and connecting into the KIUC. Very simple interconnection.

These are the existing power poles and transmission lines running east/west through the site. This makes it an ideal spot for the solar and a great location facing south with relatively flat grade.

This is the eight power blocks that Rob spoke of distributed throughout the site. And now we're going to zoom into one to scale. They're a containerized solution. It's a 40-foot shipping container is the vision, and they're loaded with batteries. This is the inner inverter and transformer as well.

There will be a seven-foot chain link fence, as mentioned earlier. Dual agriculture activity with sheep. And these are the examples of the solar trackers. They rotate east and west.
Another thing to point out is the accessibility within the site and how this is designed allowing the grass to grow and water to flow through the site. It also allows easy access for emergency vehicles.

So I would like to pause there and go into some construction impacts that are -- will be minimal during the construction. I want to point them out to you and discuss. I think we're done with that. I think we can reference these maps over here.

So now that you're familiar with the site and its layout, I'd like to address some of the limited construction duration impacts and move into the long-term operations of the project.

First, site access in the both north and south which you saw are Routes 530 and 540. Having both of those areas minimizes the impacts to just one area and allows construction workers and the material deliveries easy access to the site both accessing from the north and the south.

We chose this to basically limit the disturbance to the community in the residential area of Aka Road. There is an entrance there. Totally we will not be using that road for the access.

Once inside the project, there are existing roads labeled A through D. They are the only new roads
that are going to be constructed on the site. This minimizes the ground disturbance.

As you go into the site, we saw that there was the ability to drive large vehicles through the site. That's much different than maybe what you've seen on the island. There's 18- to 25-feet space between the rows. That allows the grazing to occur, water to flow, and decreases the disturbance or -- excuse me -- basically it allows the site to have water flow throughout.

There is no trenching between the rows and all the trackers integrated to wiring on the structure. We've designed all the trenching and wiring to be alongside the internal roads further minimizing that ground disturbance.

With ground disturbance comes the dust control. We will be mitigating through a full range of best management practices. And what is great about this site, it is rather insulated from the site and the neighboring communities and has a thick, natural vegetative screen.

The major areas of the dust control will be most likely on a south existing cane haul road with deliveries of the materials. We will have water trucks on site serving both north and south.

As with any construction, we will have the
typical construction noise during sunlight hours. Construction noise will be a very short duration only through the construction.

During normal operation and after the construction of the system, we will be virtually silent. The equipment has approximately 50 decibels of noise at the distance of 10 feet away from the power blocks. That is conversation level. The nearest residential structure is just over a mile away. So the site will be silent during that operation. Excuse me. That's a quarter of a mile away. So the site will be silent during the operation.

At AES the number one value is safety. Safety is an absolute priority. Before construction, in our engineering and designing system, during construction, and in the long-term operations through the full life cycle of the project.

To that effect, the site will be monitored 24/7 for the system performance and automatic detection of the alarms.

We have a remote monitoring center with fully staffed, manned operators. There will be full-time staff on island after the site construction and during the life of the system.

Everyone has concerns with fire for the
batteries. And with safety being number one priority at AES, we share those concerns. Without getting into extremely deep details, we'll start with the prevention first.

We monitor every battery of the system. If any voltage or temperature sensors get out of range, those units are shut down immediately until we can solve and check the issue.

The issue with battery technology is not really the fire ignition or flame. It's heat built-up or thermal runaway. We have multiple system redundancies designed into our system in the control sensors and monitoring, and even our HVAC systems have redundancies to address this issue.

If a container has -- excuse me. Each container has its own fire suppression system. It's completely contained within the unit. And with our distributed design, having a space between each container and the power blocks, there is absolutely no chance that we can have an out-of-control situation. We have even chosen a fire suppression system that is completely nontoxic to the environment.

Furthermore, I have also met with the Kauai County Fire Department. I've gotten into the details of the system, and the fire suppression has confirmed it is
addressed and exceeded all the standards and regulations.

A couple of last items. The site and the design fits perfect with the dual agricultural usage. Daryl will be discussing this a little later, but I wanted to mention that the sheep grazing will be ongoing to keep the agricultural on site.

Last, education is of great importance to me. Knowledge is one of the best gifts you can give anyone. Our construction crews and anyone that steps foot on the project will be educated about the safety, education about -- education modules will be developed by our team of experts on their respective fields on the topics of the biological, archaeological, and cultural aspects of the site.

CHAIR KEAWE: Are you done, Mr. Haughey?

CAMERON HAUGHEY: Yes.

CHAIR KEAWE: Mr. Hull, do you have any questions.

MR. HULL: The department has no questions at this time.

CHAIR KEAWE: Okay. Commissioners?

Commissioner Ho.

COMMISSIONER HO: On your map here, I don't see any -- do you have an office building, storage,
warehouses?

CAMERON HAUGHEY: Yes. That will be in the temporary staging areas to the north and the south throughout the secure site by the electrical drop-in fencing.

COMMISSIONER HO: So a couple of those staging areas that are temporary will become permanent?

CAMERON HAUGHEY: No. The operation center will be near the substation. It's sharing the fence line with KIUC substation. We'll just be on the outside of our substation.

COMMISSIONER HO: Would this also have overnight crews that are working in this area?

CAMERON HAUGHEY: No overnight crews, but we will have 24/7 security going with construction.

CHAIR KEAWE: Any other questions? Commissioner Streufert, do you have any questions?

COMMISSIONER STREUFERT: Yeah, I do have one. You said that the closest residential area is .25 miles away.

CAMERON HAUGHEY: Yes.

COMMISSIONER STREUFERT: On the mainland, what is the normal distance from the residential areas?

CAMERON HAUGHEY: For a system this size, it can be even much closer.
COMMISSIONER STREUFERT: Where would that be? Can you think of one that is closer?

CAMERON HAUGHEY: Yeah. I've done multiple projects like school systems.

COMMISSIONER STREUFERT: This large in area? This large?

CAMERON HAUGHEY: This large. I've done 10 to 15 megawatts of this size. There are sites that are within a quarter mile of a residence.

COMMISSIONER STREUFERT: Could you name one? I'd like to Google it.

CAMERON HAUGHEY: Yeah, I believe there's one in Bridgeville, Delaware. It's for the Delaware Electric Cooperative.

CHAIR KEAWE: Okay. Any other questions? Commissioner Lord.

COMMISSIONER LORD: Thank you, Mr. Chair.

THE VIDEOGRAPHER: Check you mic.

COMMISSIONER LORD: I'll do that. Thank you.

Can you tell us about a little detail on your construction schedule?

CAMERON HAUGHEY: Sure. Our goal is to start 2/1 of 2018. The construction duration will be eight months. And then we go into a commissioning phase
ending at the end of the year, 2018. We would like to bring it online before 2019.

COMMISSIONER LORD: So the commissioning phase is the testing and approvals and?

CAMERON HAUGHEY: It's working with KIUC, making sure everything syncs up, the batteries are operating, and the dispatch is working.

COMMISSIONER LORD: So a little less than a year?

CAMERON HAUGHEY: During, yeah, construction phase, a little less than a year.

COMMISSIONER LORD: And then is your main construction entry going to be near the -- near the mill area?

CAMERON HAUGHEY: The main construction -- the majority of, yes, all materials will be through that southern New Mill area.

COMMISSIONER LORD: Okay.

CAMERON HAUGHEY: Using the existing cane haul roads.

COMMISSIONER LORD: And then you mentioned some internal road construction.

CAMERON HAUGHEY: Yes.

COMMISSIONER LORD: Can you elaborate on that?
Cameron Haughey: Sure. There's four roads that are in the system, A through D. That provides access throughout the system. It also -- I was trying to explain the trackers, all the electric flows to the internal -- to those internal roads. So there's no trenching going on in between each row. This allows minimal disturbance to the land. As we grade, we'll be trenching those electric lines in.

Commissioner Lord: So for the roadways themselves, they're dirt roads?

Cameron Haughey: Dirt roads, 25 feet.

Commissioner Lord: Okay.

Cameron Haughey: And meet the requirements turning radius of -- you know, we're going to have to get cranes in, freight, and emergency vehicles.

Commissioner Lord: Right. And there will be permanent roadways?

Cameron Haughey: They will be permanent roadways. There's an existing network of roads already on site. So the only new construction of those roads, we'll be doing some improvements to the existing roads. The internal roads are the only new roads which are going to be on site.

Commissioner Lord: And then one of the testifiers earlier had a question regarding poles and
transmission lines. My understanding in your presentation is that your transmission is all underground?

CAMERON HAUGHEY: That's correct. There is an area from -- we have to connect north to south, the north section of the array to the southern section of the array, and we will be crossing over -- I'll point to the map. So we will be crossing over this area right here. With an overhead line -- excuse me. Let me get back to the mic. We will be connecting the north and south with an overhead line of horizontal construction.

COMMISSIONER LORD: Okay. Can you elaborate a little bit on that overhead line?

CAMERON HAUGHEY: Sure.

COMMISSIONER LORD: Maybe height, distance.

CAMERON HAUGHEY: Sure. It's a 530-foot span. It's constructed of three poles on each side of the -- inside the north and inside the south boundary. And it spans -- spans the -- just between the reservoir and the dam. It's constructed of three poles on each side to make that large span. And it's in one level or one layer, what's called horizontal construction.

COMMISSIONER LORD: And then what's the height of the wires and the poles?

CAMERON HAUGHEY: The poles are at 38 feet.
COMMISSIONER LORD: Okay.

CAMERON HAUGHEY: And the wires will have a sag. And we're using the natural topography of the land, it's a little bit elevated, to kind of sag down into or, you know, using the land to our advantage.

COMMISSIONER LORD: Gotcha.

CAMERON HAUGHEY: This also limits any impacts to birds. It's a very protected site.

COMMISSIONER LORD: I don't have any more questions.

CHAIR KEAWE: Commissioner Streufert.

COMMISSIONER STREUFERT: I think there was a glare and glint report that was in there. Could you explain a little bit more about how that is determined?

CAMERON HAUGHEY: Sure. The solar panels absorb light. They don't reflect it. They want to, you know, create as much energy as possible. So most solar panels and the ones we've chosen for this project are anti-reflective coated. And they also -- the surface of the encapsulant is called stipple. So what that does is it reflects light into the solar panel, not out of the solar panel.

Furthermore, the tracking system follows the sun. So as the sun comes up and sets, the trackers follow that sun. And so any reflectivity that could be
possible is directed back, you know, at the sun. It
doesn't -- like a fixed-tilt system, the angle of the
sun will hit it and then bounce and possibly reflect.

So the glint/glare study takes into all those
variables. And we chose -- you know, we went to Lihue
and the Barking Sands flight patterns and did a report
on that.

COMMISSIONER STREUFERT: So that glint and
glare was really about aircraft rather than people
living anywhere close by? Because it is in a
residential area. It is lower. There are lots -- and
it is in the middle of a residential area. It's lower,
and there are lots of homes that are above it which are
looking down into it. So as it moves, you're going
to be affecting more people as opposed to less people.

CAMERON HAUGHEY: The solar panels, again,
observe light and reflect very little light, if at all.
I could supply some more information on that, visuals to
show.

COMMISSIONER STREUFERT: We've seen --
well, I've seen some solar panels, and I presume they're
about the same as they are at Port Allen, is that
correct? Are they the same type?

CAMERON HAUGHEY: I'm not familiar with
that solar module and manufacturer, but I have done the
research and made sure that we've chosen a solar module manufacturer that uses all best management practices within the construction of the array to limit any reflectivity.

COMMISIONER STREUFERT: The topographical map, as I recall, has at the upper portion of -- the mauka portion of this area, above where the dams are or the reservoirs are, is actually slightly north facing as opposed to south facing and they're also slightly east facing as opposed to west facing, is that correct?

CAMERON HAUGHEY: It is, but with the seven-foot height of the tracker, you can -- and we've avoided a lot of the areas that are facing any north or east. And I could point to the areas that I think you're talking about. They level out with some grade differences in the land, and it's -- so they're facing south. Excuse me. They're orientated north/south, and they will track east/west.

COMMISIONER STREUFERT: Okay.

CAMERON HAUGHEY: Yeah. So you do want a gentle slope to a south-facing southern grade or makai.

COMMISIONER STREUFERT: You have Omao to the east, Lawai to the north, and Kalaheo to the west.

CAMERON HAUGHEY: The vegetation and the tall trees around the area, I think, would limit any of
that.

COMMISSIONER STREUFERT: From the road, from the surface, but not from the higher elevations. The total amount of the space -- or the total amount of coverage of the units themselves, the solar panels, is, I think you said 35 acres.

CAMERON HAUGHEY: Yes.

COMMISSIONER STREUFERT: But with the separation between them, what's the total acres it's going to be using? Is that 196?

CAMERON HAUGHEY: The total leased area could be up to 196 acres. We're at about 130 acres within fence line.

COMMISSIONER STREUFERT: Thank you.

CHAIR KEAWE: Any other questions?

COMMISSIONER MAHONEY: I have one.

CHAIR KEAWE: Okay.

COMMISSIONER MAHONEY: Earlier one of the testifiers mentioned she was worried about the spraying. Are you going to be spraying any kind of anything, pesticides, herbicides or?

CAMERON HAUGHEY: No, we will not be spraying any pesticides or herbicides during construction.

COMMISSIONER MAHONEY: Okay.
CAMERON HAUGHEY: There may be minor herbicide usage during the vegetative maintenance and during the operations of the system.

COMMISSIONER MAHONEY: And maybe any -- another concern was brought up about possible electromagnetic forces or urban myths?

CAMERON HAUGHEY: No, I never heard of any of that.

COMMISSIONER MAHONEY: Just so that they would feel that they've been addressed with their questions. Thank you.

CHAIR KEAWE: Mr. Haughey, I have some questions. The panels themselves, these are sun-powered panels?

CAMERON HAUGHEY: Yes, sir.

CHAIR KEAWE: And where are they manufactured?

CAMERON HAUGHEY: They are manufactured in Mexico.

CHAIR KEAWE: In Mexico?

CAMERON HAUGHEY: Yes.

CHAIR KEAWE: Okay. And how many would you be putting up?

CAMERON HAUGHEY: 64,800.

CHAIR KEAWE: 64,800, okay. So if I'm
driving on Koloa Road --

CAMERON HAUGHEY: Yeah.

CHAIR KEAWE: At any point once I get to
the entrance of your property, what will I see if I look
southwest? Will I see any of those panels?

CAMERON HAUGHEY: No, you will not.

CHAIR KEAWE: Okay. But again, I think the
other question was, at a higher elevation, you may see
something out there obviously, and I think that one of
the issues was, you know, is there going to be any glare
from those panels?

CAMERON HAUGHEY: There is no glare of the
panels to any residents in the area.

CHAIR KEAWE: Okay.

CAMERON HAUGHEY: I know there's one --
there is one property, the Toulon residence, that has a
house that you can see from the site.

CHAIR KEAWE: How many?

CAMERON HAUGHEY: One residence that I can
see from where the solar modules will be located. Now,
in the temporary construction area, that will, again,
just be temporary.

CHAIR KEAWE: Right, right.

CAMERON HAUGHEY: You can see it, and
you'll see construction, general construction
activities.

CHAIR KEAWE: Okay. And I guess a couple of last questions. Should you receive all of the approvals that you need and you begin construction.

CAMERON HAUGHEY: Yes.

CHAIR KEAWE: Obviously one of the issues is going to be best management practices with all those dirt roads.

CAMERON HAUGHEY: Yes.

CHAIR KEAWE: And hauling in and out 64,000 panels.

CAMERON HAUGHEY: Yes.

CHAIR KEAWE: Through those dirt roads in the neighborhood. You know, often times we have Kona winds where it blows the other way. You've got more houses on the other side. But I would assume, you know, best management practices, you'll address that.

CAMERON HAUGHEY: Yes. We'll have -- we'll have water trucks on site and remain to best management practices for the dust control.

CHAIR KEAWE: Again, assuming you get all your approvals, what's going to happen when it's done, the installation is finished? What would you have in the way of a maintenance crew or emergency contacts, that type of thing?
CAMERON HAUGHEY: Sure. We'll have on site AES staff running the facility. Showing up to --

CHAIR KEAWE: So you'll actually have individuals on a 24-hour schedule?

CAMERON HAUGHEY: It will not be 24-hour schedule, but we do have a renewable operation center that the system will be monitored for 24/7. Any alarms, the performance of the system, all data which is over a half a million data points will come into that facility. That information is on site as well as the remote site. So any hours that a technician is not on site, we have eyes on the system.

CHAIR KEAWE: Okay. So that's all computer based?

CAMERON HAUGHEY: It's computer based, yeah. Yes, it is. But on site we have an agent, HMI, or human-machine interface. That will be --

CHAIR KEAWE: Right.

CAMERON HAUGHEY: -- there, that any operator -- if we have any indication that the system went down or communications went out, a gentleman could be there within, I'll say, 10 minutes.

CHAIR KEAWE: Have you had any problems with panel failures?

CAMERON HAUGHEY: Solar module failures?
CHAIR KEAWE: Yes.

CAMERON HAUGHEY: No.

CHAIR KEAWE: Okay. So any other questions? Commissioner Streufert.

COMMISSIONER STREUFERT: Have you contacted anyone in Omao, Lawai? I mean, I know that you've contacted people on the Koloa Road and Aka Road because that's immediately adjacent to the land. But there's a lot of land that's mauka land, and there's a lot of residents. Have any of them been contacted about this?

MR. BELLES: Excuse me. Commissioner, legally we're required to notify everyone within 300 feet of the parcel. And it's not the project site. It's the 1,000 acres, which is the McBryde parcel. So we notified everyone within that radius which included some residences across Koloa Road. By and large the primary residences are located to the west of the property.

COMMISSIONER STREUFERT: Right, the 300 feet.

MR. BELLES: Correct. Those are the only ones that received by registered mail a notice of these proceedings and application of the project.

COMMISSIONER STREUFERT: Okay. Thank you.

CHAIR KEAWE: Any other questions,
Commissioners? Anything else? Mr. Hull.

MR. HULL: The department has no questions at this time.

CHAIR KEAWE: Thank you, Mr. Haughey.

Mr. Belles, call your next witness.

MR. BELLES: Mr. Chairman, may I please circle back to one issue?

CHAIR KEAWE: Go ahead.

MR. BELLES: While Mr. Haughey is still here. Mr. Hull, my partner Max Graham and I did a site inspection of the property last week, Thursday, and there's been some talk about a number of residents or communities that are near proximity, and they may actually have a vantage point down to this.

But because of the topography and the lay of the land, first of all, in response to your question, Mr. Chair, about what do you see from Koloa Road? All you see are berms, Guinea grass and albizia trees. And those would block the view of any of the stands of solar panels or any of the facility.

When you look to the west, we've got a community located about .25 miles away. Only one residence, the residence immediately abutting Koloa Road and looking over at the project, that's the only one that has any view to the property.
But again, the panels being only seven feet and with the albizia trees and the other lines of trees and vegetation, they would not be able to see it either, other than the staging area that's going to be located up there for one year where they will see construction vehicles and whatever other items are going to be stored up there.

But after the eight months or one year, that will all be removed. And from that point on, there will be a sufficient buffer. And it's my understanding there will be a condition imposed that at the discretion of the planning director, if there are problems with impacts, of visual impacts on any of the neighbors, that can be remedied by landscaping along the perimeter of the property.

And I'll turn it over to Mr. Hull to give his unbiased opinion in terms of what he saw and didn't see. Because we also shared the same concern that you had about visual impacts on neighbors, that they may be literally looking down on this. So I'll let Mr. Hull respond if he feels it's appropriate.

MR. HULL: Yeah, all I'll say is that the main concern that I had that I addressed it to Mr. Belles and Mr. Graham is the representation for the clients that, the residence, the Toulon residence, would
have significant -- who had significant vantage point where a lot of the views will be of the solar panels themselves. And if they had any concerns, and the applicant didn't. They assured the department that they had similarly to that residence to have the discussion, and at this time the department hasn't received any testimony or objection from that resident.

CHAIR KEAWE: Okay. Any further questions?

Mr. Belles, call your next witness.

MR. BELLES: Thank you for allowing me to circle back on that.

The next witness will be Brad Rockwell of KIUC. And again, Mr. Rockwell, his resume is attached at Exhibit No. 19. And the intent is to have him talk about the KIUC overview, the general operation in relationship to AES, and also to talk about the procurement process. So you can swear in the witness now, Mr. Chairman.

BRAD ROCKWELL,

after having been first duly sworn,

testified as follows:

BRAD ROCKWELL: I do.

CHAIR KEAWE: Okay. Please state your name
and address.

BRAD ROCKWELL: Brad Rockwell, 2502-D Puu Road, Kalaheo, Hawaii.

CHAIR KEAWE: Is that Rockwell?

BRAD ROCKWELL: Rockwell.

CHAIR KEAWE: Rockwell. Thank you. Go ahead.

BRAD ROCKWELL: Good morning, Chair, members, staff. As I said, I'm Brad Rockwell. I'm the power supply manager for Kauai Island Utility Cooperative. I've been working in the power business on the island of Kauai since 2001, been in charge of power supply since 2005.

I just wanted to highlight a few things. As most of you are probably aware, KIUC is a member-owned electrical cooperative. It's governed by a board of nine who are elected by the ratepayers. They serve staggered three-year terms. So three positions are up for election every year. They set our policy. They govern us. They share the same constituents as all of you do and as the county staff members do. So I think we're -- our goals are very much aligned of what we're trying to do for the island.

KIUC took over from the investor-owned utility, which was Kauai Electric, toward the end of 2002. We
are the franchise electric utility for the island of Kauai. We're fully regulated by the Hawaii State Public Utilities Commission.

We have over a thousand miles of distribution lines, 12.47 kV. We have almost 200 miles of 69 kV-rated transmission lines. We have 117 megawatts of oil fire generation capability, 72 megawatts of the solar that is connected to the system currently, 27 megawatts of that is rooftop distributed generation, 9 megawatts of hydro electric generation, 7 megawatts of biomass, and we have 23 megawatts or 16-megawatt hours of battery storage systems on the grid currently.

Our power supply mix in 2010, just seven years ago, was 8 percent renewable and 92 percent oil. All of that is 8 percent renewable was hydroelectric power, which was essentially legacy hydroelectric plants from the plantation era.

In 2010 we spent $69 million to pay for that oil to power the 92 percent oil generation and $4 million for the renewables. Even the amount of money we paid for the renewable generation was based on oil indexed pricing. So essentially 100 percent of our power supply costs in 2010 were -- was rising and falling based on oil prices.
Fast forward to today in 2017, we are now 45 percent renewable, 8 percent in hydro, 11 percent is biomass, 26 percent in solar. That leaves us with 55 percent of our power supply mix on oil. And it brings us to $39 million in a fuel bill for oil and $29 million going to renewable energy this year.

And I want to say that none of the renewable power supply prices are tied to oil anymore. They are -- most are fixed price for terms of 20 to 25 years. So we're seeing impacts that are reducing our rates and greatly stabilizing our electric rates here on the island.

That has been -- if you look at the numbers on that, we've essentially reduced our power supply bill by seven percent despite electric demand growing by three percent in the last seven years. And that three percent growth has been above and beyond what folks are doing by installing solar at their homes and businesses. We have about 11 percent of your members that have done that, and that has helped to keep our electric demand somewhat stable. But despite that, we're still seeing a three-percent increase in the last seven years.

Regarding renewable electricity targets, the state legislature has passed a bill that sets renewable energy target goals for electric utilities from the
state. Those goals are 30 percent by 2020, 40 percent by 2030, 70 percent by 2040, and 100 percent by 2045. As you can see, being at 45 percent today, KIUC has already significantly surpassed the 2020 state target of 30 percent.

Our board has recently, within the last year, updated our strategic plan and has set an even more aggressive goal than the state target. Our board has set a goal 70 percent renewable energy by 2030, which is 30 percent -- 30 points above what the state has required in that same year.

This specific project will increase our renewable energy total by 11 percentage points and will significantly improve reliability by adding enough battery storage to support the grid even when our largest turbine generator, our Kapaia power station, trips offline, preventing the need to shed load.

How did we get here with this developer and this specific project? Starting in the spring of 2016 we -- I issued a request for offers, and I solicited all the major landowners on the island, and I received a number of offers.

We evaluated them based on topography, things like visual impact, access to interconnections. So access to existing transmission lines is critical
because any time we are going to extend a transmission
line, especially through a residential area, we have to
go through a public hearing process, which is part of
the PUC. So we always try to minimize having to do
that. We look at price, of course.

And the winner of that request for offer
process was the A&B site that this project is being
proposed on. We had planned for many years to build the
new substation in that area, Aepo sub. And so that
lined up quite well with this project.

Separately, once we selected the site, I was
somewhat in a parallel path soliciting developers to
build the project because for this type of technology,
KIUC was not interesting in owning and operating the
project. So we were looking to contract to buy the power.
That enables for more efficient capture of tax
incentives which ultimately results in a lower price for
the energy, which we can straight pass through to the
electric rate since we don't take a profit on the
not-for-profit electric cooperative.

I reached out to over 40 entities in the summer
of 2016 with essentially a rough outline of the type
before project we were looking for, 20 megawatts AC,
four to six hours of storage, this is kind of the
general area we're looking at. That type of thing.
I received 20 offers. And upon further evaluation, we decided to select the best seven for a short list. We invited all seven entities to the island to have two days worth of site visits, technical meetings with your engineering team, commercial meetings so we could discuss pricing and any sort of aspects surrounding what would eventually lead to a purchase power agreement.

We then asked for renewed offers. We received those in November of 2016. From those, we selected the best offer, which was the AES team. We conducted our final negotiations and executed contracts toward the end of December.

Our selection was based largely on price, but also on design, the bankability of the company. AES is a large publicly-traded company. So we felt that they were very bankable and a good partner to bring to Kauai.

We then went through the Public Utility Commission application. We filed that earlier this year, and we did get full approval in a fairly clean word from the Hawaii Public Utility Commission in July of this year.

I did try my best to address some of the questions that were raised by the public testimony during the break and did hand out my cards if there's
any follow-on questions. You know, we're the ones who are here as representatives of your electric cooperative. But certainly if there's any outstanding questions that members have or folks in the public, please grab me afterwards, and I'll give you my card so we can continue the dialog as we bring this project to success, if so proved. Thank you.

CHAIR KEAWE: Thank you. Commissioners, any questions? (No response.)

Mr. Hull, any questions for Mr. Rockwell?

MR. HULL: No questions.

COMMISSIONER LORD: I have a question.

CHAIR KEAWE: Go ahead, Commissioner Lord.

COMMISSIONER LORD: Mr. Rockwell, just a couple quick questions. Can you expand on storage type and how that works? I know there's several different kinds of battery storage.

BRAD ROCKWELL: These are going to be lithium ion batteries which are common to what the electric vehicles are using. It's where most of the market is at, and most storage projects are using lithium ion technology. And within that, we like to say there's tier one suppliers, which would be Samsung, LG Chem, you know, the Tesla products, which we did over at the Kapaia solar and storage project. And these are
going to be using LG Chem. So it's a very reputable supplier with a lot of history and experience in installations.

COMMISSIONER LORD: And what's the expected life on those?

BRAD ROCKWELL: The life is -- I don't know if I'm the best suited to answer that. Probably the AES team would be. But, you know, I think the plan is that they're going to significantly overbuild the capacity early on, so we'll end up with more than the contract capacity value. And as the system degrades over time, they'll augment by adding some more in. And that was a similar approach that we took to the Tesla project in Kapaia, which by the way I should mention, has been online since March of this year. And in that case, they essentially planned to add -- just augment by shipping more power packs to the site throughout the 20-year term.

COMMISSIONER LORD: And do you know how disposal of those batteries is handled?

BRAD ROCKWELL: Typically -- they're going to be shipped back to the factory or the manufacturer, and then handled off site. So...

COMMISSIONER LORD: And then you had mentioned, I think I heard you, that this project was
going to supply 11 percent of your total needs, is that correct?

BRAD ROCKWELL: Yes, correct.

COMMISSIONER LORD: And then you had mentioned that you didn't want to pursue the project as a utility because you had some concern of that kind of technology. Can you elaborate on that?

BRAD ROCKWELL: Yeah. Our goal with renewable projects has been to place the risk at the appropriate level with the entity that's best suited to handle that. So, for example, if you look at the way we did the land request for offer, we felt that we could best select the site and be very involved in that process and bring that to an outside developer.

You know, companies like AES, like Tesla, they're not as familiar with Kauai, and certainly not with the best spots for interconnection. So we bring value to the site selection process, to the interconnection as a utility.

We think an entity like a Tesla or like AES, LG Chem, brings the best resources to handle, you know, things like battery storage and the fact that it is somewhat still an evolving market.

So, you know, I think that if we had to try and plan to do that and address those risks, I think you
might see a little bit higher cost project. Whereas
they're a little more comfortable because AES is
probably doing this project and, you know, many others.
So within the pool of -- they're probably contracting
for hundreds of megawatts of battery storage with LG
Chem, so much better position to be able to address that
than we would be.

COMMISSIONER LORD: Thank you.

CHAIR KEAWE: Commissioner Streufert.

COMMISSIONER STREUFERT: You said that you
went out for a request for offers for sites. What were
your criteria for the site selection?

BRAD ROCKWELL: It was mainly the access to
the interconnection, topography, visual impact, the
solar resource. Although I will say the solar resource
on Kauai you're going to see it's pretty similar just
about anywhere, unless you're going really mauka, and
the price, the terms, the conditions, the price.

COMMISSIONER STREUFERT: And which sites
were considered?

BRAD ROCKWELL: So we solicited -- any time
we're looking at a project this size, we have to go to
-- there's only a handful of folks really that have
parcels that are this large. So you're talking the
state, DHHL, G&R, A&B, Grove Farm. You know, and within
the state it could be ADC, it could have been DLNR. I'm trying to think. I don't have the list in front of me. There may be one or two others that we solicited.

COMMISSIONER STREUFERT: Do you know what other sites were actually considered besides this one?

BRAD ROCKWELL: We have over the years talked with the state, with G&R, with Grove Farm, about a number of sites. And for this specific project, we felt that the A&B site was the best. We're going to continue to be looking at more projects in the future, and we'll circle back, and some of those may be selected for future ones. There may be others.

COMMISSIONER STREUFERT: If you're looking at who uses -- the utilization of electricity, where is most of the electricity being utilized?

BRAD ROCKWELL: Lihue/Kapaa corridor.

COMMISSIONER STREUFERT: So that's further east as opposed to west?

BRAD ROCKWELL: Correct.

COMMISSIONER STREUFERT: So wouldn't you prefer to have your electric generation closer to where you're utilizing it?

BRAD ROCKWELL: Yeah. I think you could say yes. Although distances on Kauai are relatively short. Our line losses are much lower than a typical
mainland system. You know, we're talking like three to four percent. So the difference between doing a project in Lihue/Kapaa versus where this one would be is a minimal difference in line losses.

But, yeah, and I know from looking at this, there's not a whole lot of -- you know, a lot of that mauka of Lihue/Kapaa area is state, and it can be conservation land and forest preserve and things like that, especially as you get up like along Kuamoo Road and Kawaihau, in that area. So it's challenging to find large parcels there with access to existing transmission lines or an existing substation.

COMMISSIONER STREUFERT: But if that's the case, then access to connection is not really that much of criteria for that?

BRAD ROCKWELL: Oh, no, it's a big criteria. It's a big reason that, if we have to build -- if we just chose a green field site and we had to build transmission lines to that site, we would have to do a public hearing. We would have to go through an additional layer of Public Utility Commission approvals. And the cost of extending transmission line and the avian species mitigation efforts, it's a whole other ball game.

COMMISSIONER STREUFERT: You've already got
Kapaia and you've got Kapaa, Anahola, that area, is that correct?

BRAD ROCKWELL: We do have projects in Anahola, Koloa, Kapaia, yeah.

COMMISSIONER STREUFERT: Okay.

CHAIR KEAWE: Any other questions for Mr. Rockwell? (No response.)

I just had one, Mr. Rockwell, more from an environmental standpoint. You're probably familiar, several years ago there was a very large fire in a battery storage facility on the north shore of Oahu.

BRAD ROCKWELL: Correct.

CHAIR KEAWE: And those lithium ion batteries are very difficult to put out as far as fire is concerned. So have you made any outreach to the fire department? Because you're starting to go into that technology now.

BRAD ROCKWELL: Right.

CHAIR KEAWE: With batteries. I just wanted to touch base, was that a consideration?

BRAD ROCKWELL: Of course. And just a couple points of clarification. So that facility on the north shore of Oahu was actually not a lithium ion battery at the facility. That was a lead acid battery with Xtreme Power as the manufacturer.
I did get to see some other of the root causes, and it was -- there was some indication that there was improper housekeeping where they had debris in the aisles and things like that that probably contributed to that.

So I think that's a little bit different technology. But as AES mentioned, they did have meetings with Kauai Fire Department. And, you know, they have fire suppression systems. That facility on the north shore of Oahu did not have a fire suppression system. So I think we've learned a lot from that one.

CHAIR KEAWE: Okay. Mr. Hull.

MR. HULL: For the record, Chair, the fire department did submit comments. It is attached to Supplement No. 1, the report in which there were no objections made. It just stated that this project didn't violate Kauai County fire code. And usually the fire department will do a further, much thorough inspection on the proposal after we --

CHAIR KEAWE: Yeah. The concern was that they did get contacted before and that they have the technology to put out lithium ion fires.

BRAD ROCKWELL: If I may, Mr. Chair, just to get it on the record. Some of the responses I gave to the some of the public testimony, would you mind if I
just expanded on that for a moment?

CHAIR KEAWE: Go ahead.

BRAD ROCKWELL: Some of the concerns that were brought up regarding health concerns specific to EMF, you know, I wanted to address. EMF is typically a concern when you have extremely high voltage power lines. Typically on Kauai, our transmission system is running at a much, much lower voltage than areas that you see on the mainland where EMF is more of a factor. And it's typically only a concern right under the power lines, very close proximity.

So we have not had any complaints with any of our existing systems, a notice of health impacts. The existing solar farms we have at Koloa, Anahola, Kapaia, Port Allen, we have not had any complaints about any sort of health impacts from that. And I can testify, as somebody who goes out there all the time, that the noise levels are very low.

There was also concerns about agricultural land use. Even if we went to a full build-out of a hundred percent renewable energy with projects likes this, we would probably be looking at roughly a thousand acres in total of use. And I know from the 2015 ag land study that was done here on Kauai, I think there's well over 50,000 acres. So we're in a low single-digit percent as
far as land use. 

And I think that was the stuff I wanted to make sure we got on the record. Thank you.

CHAIR KEAWE: Thank you very much. Any further questions for Mr. Rockwell?

COMMISSIONER STREUFERT: Just one.

CHAIR KEAWE: Commissioner Streufert.

COMMISSIONER STREUFERT: You said the transmission lines are an issue, and yet most of the energy or a lot of the electricity is used in the Kapaa/Lihue area, and so I'm not quite sure I understand that. What do you mean by having transmission lines closer by as a point of consideration of that in the determination which parcel of land to use?

BRAD ROCKWELL: I think if I understand your question, so when we look at a large solar project like this, it needs to be able to interconnect to the electric grid.

COMMISSIONER STREUFERT: Right.

BRAD ROCKWELL: And so we do that through substations. We have about 14 substations throughout the island. So if you're talking in the Lihue/Kapaa area, Lihue substation is near the old Lihue mill just across Kaumualii Highway tucked back in the trees there. There's potential, maybe we could do something around
there, but it's a little bit challenging.

Kapaa switchyard is right on Kuhio Highway -- or just off Kuhio Highway. It's in a real challenging area. There's no like, you know, large parcels where you're talking about a couple hundred acres, from my knowledge, that you could really do something right in there between there and the bypass road.

Our other switchyard on that side is Lydgate switchyard, which is pretty much right by Lydgate Beach Park, and there's potential maybe across the highway.

But, you know, we do look at those. We did try and solicit offers from landowners in those areas, but we did not get anything.

COMMISSIONER STREUFERT: Because this place that you're looking at right now is open space designation and considered to be a historic heritage resource for open space scenic. It's a large parcel. And if I understand the CZO correctly, it should not occupy more than 10 percent of the acreage or 20 acres of land, whichever is less.

BRAD ROCKWELL: Correct.

COMMISSIONER STREUFERT: This is over the 20 acres of land regardless of how you want to measure it.

BRAD ROCKWELL: Which I think is why we go
to the State Land Use Commission.

        MR. HULL: No. So for clarification, Commissioner, that specific requirement is put into an over-the-counter permit, not agricultural. So anything larger than that requires a use permit. So if they were under that acreage, technically it's a Class I zoning permit they get over the counter.

        COMMISSIONER STREUFERT: Right.

        MR. HULL: So it's part of the bundle package goes to the -- the special permit that ultimately goes to the LUC.

        COMMISSIONER STREUFERT: So this is why we're looking at this.

        BRAD ROCKWELL: I will add that as somebody's who's developed, I don't know, half a dozen projects now here on the island, there is no to ideal -- at least I haven't found the ideal site yet where there isn't sort of issue, whether it's ag land, whether it's residential concerns, whether it's assess to power lines, whether it's biological or, you know, archaeological, historical, or cultural preservation. There's always something that, you know, we're going to have a deal with.

        And so I think we just look for the best that we can do at the time trying to be moving forward and,
you know, chipping away at this oil addiction that we have.

CHAIR KEAWE: Anything else? Any other questions for Mr. Rockwell. (No response.)

Thank you, Mr. Rockwell.

Mr. Belles, before we continue, we'd like to take another break. If you have any further comment at this point, please share them. If not, we'll take another break. Short one this time. Thank you.

MR. BELLES: Thank you.

(Break from 11:07 to 11:22.)

CHAIR KEAWE: Let's reconvene, please. We all here? Mr. Belles.

MR. BELLES: Yes, sir, Mr. Chair.

CHAIR KEAWE: Proceed.

MR. BELLES: We'll make our -- do our level best to move this thing along as quickly as possible. I, again, appreciate your patience and understanding with all this.

Our next witness is Dennis Esaki, the president of Esaki Surveying & Mapping, and his resume is Exhibit 20, and he'll be talking generally about engineering, draining, drainage, and any issues about compliance with applicable county, state laws, rules and regulations regarding the same. So you can swear him in
and take it from there.

DENNIS ESAKI,

after having been first duly sworn,

testified as follows:

DENNIS ESAKI: I do.

CHAIR KEAWE: Could you state your name and address for the record, please.

DENNIS ESAKI: Dennis Esaki, 1610 Haleukana Street, Lihue.

CHAIR KEAWE: Thank you. Go ahead and proceed.

DENNIS ESAKI: Good morning. I'm Dennis Esaki, president of the Esaki Surveying & Mapping, Inc.; a mapping, civil engineering, and land surveying company; a former Land Use commissioner, and one of the founding directors of KIUC. But I'm now a KIUC member like most of you here.

We've worked on similar solar projects at Eleele, Koloa, and the most recent Tesla/SolarCity project at Hanamaulu. We also worked on the green energy power plant. The projects were approved through all the related agencies and are functioning properly.

On this project, we have done a topographic
survey, we're doing a drainage study, and we're working on the civil engineering plans.

We anticipate applying for grading and grubbing permits as necessary.

The County Public Works Department and State Department of Health will review and approve their respective plans and permits.

Best management practices will be called out and must be followed during construction.

NPDES, National Pollutant Discharge Elimination System, must be applied for an approved prior to construction.

Some of the things that will be included will be stabilized construction entrance, revegetation for erosion control, silt control, and temporary silt basin. There will also be one or more retention basins to retain any increase flow into the rest of the property. The quality and quantity of water leaving the property identified should be the same as prior to construction.

CHAIR KEAWE: That is it? Do you have any further?

MR. BELLES: No further questions. He's available for cross-examination, either the department or the commission, Mr. Chairman. Thank you.

CHAIR KEAWE: Okay. Mr. Hull.
MR. HULL: The department has no questions.

CHAIR KEAWE: Commissioners, any questions for Mr. Esaki? (No response.)

Okay. Mr. Esaki, thank you.

DENNIS ESAKI: Thank you.

MR. BELLES: Thank you very much. Next witness will be Dr. Hallett Hammatt.

HALLETT HAMMATT, PH.D.,

after having been first duly sworn,

tested as follows:

DR. HALLETT HAMMATT: Yes, I do.

CHAIR KEAWE: Please state your full name and address for the record.

DR. HALLETT HAMMATT: My name is Hallett Hammatt. My address is 49 South Kalaheo Avenue, Kailua, Oahu.

CHAIR KEAWE: Thank you. Proceed.

MR. BELLES: Thank you, Mr. Chair. I'd like to note for the record that Dr. Hammatt's resume is Exhibit 21 with the application.

He is an expert witness. I would like to have the commission accept him as such dealing with the issues of archaeology.
CHAIR KEAWE: Okay.

MS. HIGUCHI-SAYEGUSA: I would -- just to be clear, I would entertain a motion.

CHAIR KEAWE: So we need to entertain a motion to recognize Mr. Hammatt as an expert witness.

COMMISSIONER MAHONEY: Chair, I'll make a motion to accept Mr. Hammatt as an expert witness.

CHAIR KEAWE: Do I have a second?

COMMISSIONER STREUFERT: Second.

CHAIR KEAWE: It's been moved and seconded. Any discussion? (No response.)

All those in favor. (Ayes.)

Any opposed? (No response.)

Proceed.

MR. BELLES: Thank you very much. Dr. Hammatt will be basically responding to two exhibits in the app, Exhibits 26, which is the archaeological inventory survey record, and Exhibit 28, which is the cultural impact assessment report. And he'll also be talking about letters that the Planning Department has received from SHPD, as well as summarizing the findings in both reports and his conclusions and recommendations.

So with that very broad introduction, I'll turn it over to Dr. Hammatt.

DR. HALLETT HAMMATT: Thank you very much.
First let me talk about the inventory survey. This was a field effort involving a number of archaeologists. Nineteen field days actually were involved. We covered the entire project area of about 210 acres actually, including the project area as well as the various facilities that are going to be a part of the project.

We found a series of plantation infrastructure sites including ditches and some berms and tunnels and that kind of thing, which we subsumed under one site number. Some of those sites, four of the features of that site are in the project area. The others were excluded.

There's another site, which is about 500 feet makai, which was mentioned earlier in the testimony. That's called Niukapukapu Heiau, which was recorded by Bennett in 1934. I have visited that site. I have looked at it, and I don't believe it's going to be impacted by this project at all.

So our inventory survey was turned into SHPD. They've accepted that early this month after a short review. And we're -- our recommendation is for archaeological monitoring. The sites were evaluated as important for their information content, which is Criteria D of the State National Register. So we will be preparing a monitoring plan for this particular
project, and there will be archaeological monitoring of
ground disturbance.

So that kind of summarizes the inventory
survey. If there are any questions, I'll be glad to
answers them.

CHAIR KEAWE: Mr. Hull, any questions.

MR. HULL: No questions at this time.

CHAIR KEAWE: Commissioners, any questions?
(No response.)

I have a few, Dr. Hammatt.

DR. HALLETT HAMMATT: Sure.

CHAIR KEAWE: We've received your report,
and we want to make sure, could you explain any actions
you've taken to identify valued cultural and historic or
natural resources to determine the extent of the
traditional or customary rights that were exercised in
the area?

DR. HALLETT HAMMATT: That would be covered
under the cultural impact assessment. That's the second
document we prepared.

CHAIR KEAWE: The second document, okay.

DR. HALLETT HAMMATT: So maybe I can
proceed with that.

CHAIR KEAWE: Okay.

DR. HALLETT HAMMATT: We -- our typical
approach is we send out outreach letters by email and
post to a list of people we have for every area of
Hawaii. We have a list of descended groups or kamaaina.
We sent out over 50 requests for information.

We actually got seven responses. We got
responses from SHPD, which is typical, from OHA, we got
responses from Kauai Museum, and also a number of
individuals including Ted Blake, who is in the audience
today.

Chad Schimmelfennig, who's a resident of the
area, kamaaina, and Lawrence Smith, who actually lives
in the project area or very close to it.

The result of that consultation relates
obviously to the long-term land use for pineapples -- I
mean for sugar.

And there's -- oh, and also Wilma Holi also
responded, a long-term resident of Hanapepe, who is very
familiar with that particular area.

There were no concerns of traditional or
cultural practices.

I also want to mention that we have done
extensive work makai of this project area in the
Kukuiula project area. In this particular project area
we're talking about today, we did not do subsurface
testing. The reason for that is because we did
extensive subsurface testing in pineapple fields makai at the request of SHPD because there is some uncertainty as to whether their findings under the plow zone of cane fields.

And we found actually, after extensive testing, we found no findings. So we're fairly confident in this project area that there will be no findings.

Also, we considered the comparative small ground disturbance that we would expect in a normal project compared to this one. And so we were fairly confident that there will be no findings in the archaeological monitoring. But, however, just to be safe, we will be monitoring the ground disturbance.

CHAIR KEAWE: That was my question.

DR. HALLETT HAMMATT: Yes.

CHAIR KEAWE: You will be monitoring on an ongoing basis in case something does comes up?

DR. HALLETT HAMMATT: Yes, we will be.

CHAIR KEAWE: Okay. Anything further, Dr. Hammatt?

DR. HALLETT HAMMATT: I'll be happy to answer some questions.

CHAIR KEAWE: Any questions for Dr. Hammatt? Commissioner Streufert.

COMMISSIONER STREUFERT: I'm sorry. There
was a heiau somewhere on this lot that had been identified. Is that part of a larger organization of buildings that might have been disturbed earlier when they were creating --

DR. HALLETT HAMMATT: The closest heiau to the project area is actually Niukapukapu Heiau, which is approximately 500 feet makai on a high ridge. I visited that heiau a number of times as part of our Kukuiula project, although it is not in the Kukuiula project area.

The view plane of that heiau is makai, obviously as most heiau are. I don't believe there's any impact to that heiau for this project because of the fact that it's not in the project area and the view plain from the heiau would not be impacted by this project.

COMMISSIONER STREUFERT: If there's a heiau in an area, is there not usually some community or some other structure that might have been in that area or close to it?

DR. HALLETT HAMMATT: Well, that's a good question, and that is true actually. However, this particular heiau is totally surrounded by cane fields. So all that -- and, you know, as I said, in that particular project area makai of the Kukuiula project,
we did extensive testing makai of that heiau, and there were no findings.

COMMISSIONER STREUFERT: Okay.

DR. HALLETT HAMMATT: And all the surrounding area has been cultivated in cane since 1900.

CHAIR KEAWE: Any further questions for Dr. Hammatt? (No response.)

If not, thank you, Dr. Hammatt. Mr. Belles.

MR. BELLES: Thank you very much.

DR. HALLETT HAMMATT: Thank you very much.

MR. BELLES: The next witness will be Theodore Teddy Blake.

THEODORE BLAKE, after having been first duly sworn, testified as follows:

THEODORE BLAKE: I do.

CHAIR KEAWE: Okay. Please state your name and address for the record.

THEODORE BLAKE: My name at Ted Kawahinehelelani Blake. Excuse me. I reside at Koloa, P.O. Box 96, 96756.

CHAIR KEAWE: Okay. Proceed.

MR. BELLES: Mr. Blake's resume is attached
as Exhibit 22, and Mr. Blake was interviewed by Cultural
Surveys Hawaii in the preparation of the CIA report.

   And I'd simply like him to ask him to summarize
just a little bit about his family history in connection

to the Koloa/Poipu area, his knowledge and experience
with this particular piece of property, and any opinions
he may have about any cultural practices that he may
know of that may have existed on this land or may be
affected by it. Thank you.

THEODORE BLAKE: My family's resided in
Koloa at least six to five generations. I'm familiar
with -- very familiar with the Koloa area ahupuaa of
Koloa and the coastline from Mahaulepu, Paa, Weliweli,
Koloa, Lawai, and makai.

   As far as the subject property, my first
recollection is was that was all in pineapple. After
that, it was in cane. And it was after cane, it was
pastures.

   Being private property, it was difficult to get
on, although we did get on it. You know, some guys
would go hunting or whatever they wanted. You know, and
I'd accompany then. We didn't see much in the way of
Wahi Pana. I know it was there. I've seen it makai of
the parcel in question and Lawai Valley. The Hikina
site, east side of Lawai Valley.
We went on probably about a five-hour tour driving with Allen Reis, who worked at McBryde for a long time before he morphed into A&B, and I think he probably oversees the property there. And it was interesting talking to Allen because he brought back memories of some things. When you're trying to back this far, I like to be in a group of people talking because it jogs everybody's memory, and you remember things that you probably wouldn't have if you were interviewed individually.

So I talked to Chad Schimmelfennig, whose grandfather Carl used to be one of the lunas for the pineapple fields. And he was his grandfather's favorite. Always accompanied his grandfather, you know, driving around. And I asked him about that specific area.

He said, You know, there's a heiau there, but the places we've talked about, and I know there's Wahi Pana there, but I don't think they were significant because my grandfather never stopped to talked about it.

And I talked to Jack -- Gerald Blackstad, who lives across the street on Koloa Road, asked him. He mentioned also the same Wahi Pana I just discussed. And then I asked him if there's anything that he knew culturally that went on there.
He said none, it was all pineapple and sugar.
And then the last one I talked about was Laurie
Smith. Laurie's dad -- Laurie has pastures down there.
She was concerned about the loss of her pastures, but
they've resolved that. I think she's got her lease
renewed.

So as I looked at it and we went down, we came
off of Koloa Road, past Ekahi, past Elua, two
reservoirs -- there's four reserv- -- four reservoirs.
And I believe the project site is makai, on the makai
west side of Elua. I couldn't see the road, Koloa Road.
I couldn't see that. And that -- I mean, nowadays,
that's a big thing, you know, something interrupting
your view plane.

The storage area, I didn't -- I found out today
where it's going to be. I had heard that it would be up
in -- adjacent to Koloa Road, which I didn't think was a
smart idea for a developer to do up there. And I found
out that that wasn't the case either.

So we concluded that after our long tour, and
we drove every road in there, and the two employees of
Cultural Surveys was with me. Nicole Ishihara and
Chantellee Spencer. And extensive, and I didn't feel
like cutting all the Guinea grass from the roof of my
apana, but it's there.
What I appreciate about this is that they've been identified now, so if future development comes up, we already know what's there, and hopefully we get a chance to get in and clean it and see what we got and hopefully from preserve it.

CHAIR KEAWE: Okay. Mr. Hull, any questions for Mr. Blake?

MR. HULL: I have no questions.

CHAIR KEAWE: Commissioners, any questions?

COMMISSIONER MAHONEY: I do.

CHAIR KEAWE: Commissioner Mahoney.

COMMISSIONER MAHONEY: Mr. Blake, so we'd be in concurrence with the archaeology in the report previous --

THEODORE BLAKE: I'm sorry.

COMMISSIONER MAHONEY: Would you be in concurrence with the archaeologist --

THEODORE BLAKE: Yes, I would.

CHAIR KEAWE: In that everything that's culturally significant has been identified?

THEODORE BLAKE: This is one of the -- and I'm not -- I haven't been paid to advertise for Cultural Surveys. They're one of the better -- they're one of the better companies that we work with in the entire Koloa area. Very receptive, very respectful, and very
professional.

COMMISSIONER MAHONEY: Thank you.

THEODORE BLAKE: Maybe that gets me lunch today (laughter).

COMMISSIONER MAHONEY: I always ask about your reference. Thank you.

THEODORE BLAKE: Thank you.

CHAIR KEAWE: Thank you. Mr. Belles.

MR. BELLES: Okay. Next witness will be Jaap Eijzenga. And I have difficulty pronouncing his last name, and I'll apologize in advance.

JAAP EIJZENGA, after having been first duly sworn, testified as follows:

JAAP EIJZENGA: I do.

CHAIR KEAWE: Would you please state your full name and address for the record. And go slowly so we can get the right -- the right spelling.

JAAP EIJZENGA: Okay. My name is Jaap Eijzenga.

CHAIR KEAWE: Eijzenga?

JAAP EIJZENGA: Yeah. I'll spell it for you. It's J-a-a-p. My last name is E-i-j-z-e-n--
CHAIR KEAWE:  E-i-j?

JAAP EIJZENGA:  -- -g-a.

CHAIR KEAWE:  E-i-j- -- -g-a. Okay.

JAAP EIJZENGA:  I'm at 1001 Bishop Street, Suite 2800 in Honolulu, Hawaii.

CHAIR KEAWE:  Okay. Go ahead.

MR. BELLES:  Briefly, his resume is Exhibit No. 23. He's prepared report called, The Biological Resources Survey Report dated June 2017. It's Exhibit E5 attached to the original application, which is Exhibit 1. And he's the director of SWCA, Pacific Islands Offices. And like Dr. Hammatt, I would like to ask that the commission accept him as an expert witness on flora and fauna, please.


JAAP EIJZENGA:  I'll summarize briefly the results of the biological survey that my crew did on May 1st and 2nd this year. The survey area encompassed about 250 acres, including the intact project area or at least the project area.

For the flora survey, the botanists identified 87 plant species total out of which seven -- I'm sorry -- six are indigenous plants.

The vegetation basically consists of three vegetation types. We have pasture vegetation, which is
where most of the grazing is occurring currently. It's mostly non-native grass. It's mostly Guinea grass. Ruderal vegetation, which is basically the common vegetation type you find in disturbed areas, roadsides, dominated by a mix of non-native grasses and plants and some -- and trees species like albizia, for example.

And then there was mixed non-native forest, which is more -- consisted off non-native tree species with a very minimal understory.

There are no protected plant species that we found in the area. So in the interest of flora resources, we don't anticipate any impacts.

For the fauna survey, 22 bird species were identified on site. Only two of them indigenous birds. One is the black-crowned night heron, and the other is the Hawaiian gallinule, which is protected under state and federal endangered species law. Those birds are entirely restricted to some of the reservoirs that are at the area and are not expected to use any of the other areas of the project site that would be impacted by construction and operation of the PV installation.

Other than that, we did not find any habitat or cave dwelling invertebrates. The nearest habitat, as far as we are aware, is at least 1.5 miles away from the site. So those won't be impacted.
And, yeah, I think that summarizes the flora and fauna report.

CHAIR KEAWE: Okay. Any questions for Mr. Eijzenga? (No response.)

I had one. Were there any resident pigs on that property? (Laughter.)

JAAP EIJZENGA: I'm sure there are. I'm hearing from folks here that may have spent some time in the area. I can look and see if they were observed.

CHAIR KEAWE: The only reason I raised that question is obviously there are a lot of homeowners in the area, and it's always an issue about pigs no matter where you were on this island.

JAAP EIJZENGA: Right. Well, they're quite ubiquitous.

CHAIR KEAWE: Yeah, exactly. If not, it's not an urgent issue.

JAAP EIJZENGA: Okay. I could summarize. Cattle were observed, horses, mule, and a house mouse. And pigs were not directly observed, but sign of pig presence was certainly documented in this area.

CHAIR KEAWE: All right. Thank you. Any questions? (No response.)

Thank you. Mr. Belles.

MR. BELLES: Next witness is Mr. Reginald
David.

REGINALD DAVID,

after having been first duly sworn,

testified as follows:

REGINALD DAVID: Yes, sir.
CHAIR KEAWE: Thank you. Please state your name and address, please.
REGINALD DAVID: My name is Reginald David. I have live at P.O. Box 1371, Kailua-Kona.
CHAIR KEAWE: Okay. Thank you.
MR. BELLES: Okay. Mr. David has been asked to join us today to complement Jaap's testimony. Again, I won't even try his last name. You're much better at it than me, Mr. Chairman.

Reggie is with Rana Biological Consulting, a terrestrial vertebrate biologist. He's been sworn in. His resume is Exhibit 24. And I'd ask, as before, that we accept him as an expert witness, please.

CHAIR KEAWE: Can we have a motion to accept Mr. David as an expert witness?
COMMISSIONER STREUFERT: I move to accept Mr. David as an expert witness.
CHAIR KEAWE: Do we have a second?
COMMISSIONER: Second.

CHAIR KEAWE: It's been moved and seconded to accept Mr. David as an expert witness.

All those in favor. (Ayes.)

Any opposed? (No response.)

Thank you.

MR. BELLES: And Mr. David did prepare a report which has been included and is involved in the application called, Endangered Species Recommendations for the Lawai Solar and Storage Project dated August 3rd, 2017. That's Exhibit E-9 to the application, which is Exhibit 1.

So I'd simply like to ask Mr. David to summarize his findings and conclusions.

REGINALD DAVID: Thank you, Mr. Chair, Commissioners. Basically when it became obvious that we had a very short aerial run connecting two arrays, I was brought in because I've been working with the native seabirds on this island for close to 30 years, and I've worked on most of KIUC's projects involving native seabirds.

Basically what I was asked with doing was meeting with the project manager and with a team of their engineers. And basically we went out and did a field visit on July the 19th of this year. And the
focus of that was essentially for me to work with them, the engineers, to design the most effective way to put this short run, I believe it's 530 feet of line, in a location so that it would not impact endangered seabirds flying through that region during the nesting season.

Basically what we did is we had three logical places to run the connection. They were basically between the top Aepo Reservoir and the second one, and between the second one and the third one, and then below that one going down to the fourth reservoir.

Essentially what we found is that we could put the aerial line on the reservoirs -- between reservoirs two and three. And the ground is such that we can put a couple of very short wooden power poles and run this line at no more than 29 feet above the ground.

And that location is completely shielded mauka of the site and below it. So there is -- there is still quite a ways to go towards the ocean. So we -- my opinion was that if he put it there, birds would still know that they still have a fair amount of vegetation to clear before they drop down below the fourth reservoir and head out straight to sea. And then essentially the chances that a bird would actually fly lower than the trees that shield this site are extremely low.

We also recommended that we develop one of our
standard training modules, endangered species awareness programs put in, recording loops and the like for the construction workers, and then following build-out by the operators. These are similar to programs that we have set up for many entities on this island that have been -- many of them have been running for many years, St. Regis, Hokuala, KIUC, and others. And basically the modules would be extremely similar to those.

CHAIR KEAWE: Mr. David, is there any data that that particular area has a larger fly-away population of like shearwaters than in other areas?

REGINALD DAVID: No, there is not. And actually we have finally been able to put satellite tags on Newell's shearwaters, the first time over the last three years. Finally got the tags small enough. And we found out that essentially that whole concept of very fixed flight corridors is, in fact, not true. They fundamentally just -- Kauai is a very low island. So they tend to head to sea in whatever direction they feel is a good way to go that night or probably which way the wind is blowing. So, yeah, this is not an area that's considered a high risk for seabird downings anymore?

CHAIR KEAWE: Okay. Thank you. Mr. Belles.

MR. BELLES: Thank you. Just one last
comment or question for Mr. David, and that is,
yesterday he received an email response from Fish &
Wildlife, and it's identified as Exhibit 36 in the
application. I just wanted him to briefly summarize the
discussions with Fish & Wildlife and what their
assessment is of his report.

REGINALD DAVID: Obviously everybody on
Kauai knows that the seabird issue is a very hot one,
and Fish & Wildlife Service has been involved with
seabird issues here for many years.

So essentially what I did is I've contacted
Fish & Wildlife Service, and I gave them SWCA's report,
my report, and my recommendations to provide
minimization measures as practicable.

And we got written confirmation from the Fish &
Wildlife Service that they agreed that with the
minimization measures that we have proposed and which
the applicant is willing to do, that they do not view
this as being problematic. And they basically ask that
we do put in these training modules for construction
workers and for operators, and that they felt that the
flooring height of 29 feet above ground and its location
did not represent a real threat to the seabirds passing
through that area.

CHAIR KEAWE: Thank you. Anything further?
(No response.) Nothing, no.

Okay. Thank you, Mr. David.

REGINALD DAVID: Thank you.

MR. BELLES: Most important words you wanted to hear, our last witness.

CHAIR KEAWE: Last witness. Mr. Belles, call your last witness, please.

MR. BELLES: Mr. Daryl Kaneshiro, please.

DARYL KANESHIRO, after having been first duly sworn, testified as follows:

DARYL KANESHIRO: I do.

CHAIR KEAWE: Please state your name and address for the record.

DARYL KANESHIRO: Thank you. My name is Daryl Kaneshiro, D as in Daryl, and not A as in Arryl. I live 4135 A Noho Road, Omao, actually we call it Koloa, Omao-Koloa, Kauai.

CHAIR KEAWE: Thank you.

DARYL KANESHIRO: Oh, go ahead.

MR. BELLES: Excuse me. Sorry. Again, Mr. Kaneshiro's resume is attached at Exhibit 25. This may sound a little irregular, but I'd like to have him
accepted as an expert on farming, ranching and animal husbandry. And I couldn't think of a better way of phrasing it. So if you would, please.

DARYL KANESHIRO: Thank you, Mr. Belles.

CHAIR KEAWE: Hang on a second. We need to do a motion so you can talk.

COMMISSIONER MAHONEY: Chair, I move to accept Daryl Kaneshiro as an expert witness.

COMMISSIONER HO: Second.

CHAIR KEAWE: Testimony completed. Oh, you didn't? All right. We have a second. So moved and seconded to accept Mr. Kaneshiro as an expert witness.

All those in favor. (Ayes.)

Any opposed? (No response.) Thank you.

You may proceed.

MR. BELLES: Okay. Thank you. You have as Exhibit E-8 attached to the application which is Exhibit 1 a document from Omao Farms, which is called Farm/Sheep Grazing Operation and Agricultural Plan. It's dated August 2nd, 2017. And I'd simply like Mr. Kaneshiro to summarize it and tell us what his recommendations are and what other experience he has with a solar facility on Kauai. Thank you.

DARYL KANESHIRO: Thank you, Mr. Belles, and thank you, Honorable Commissioners and Members of
the Planning Department.

I just -- before I do go into the plan that I
developed for grazing sheep in this facility, I just
wanted to touch bases very little about visual impact.
I've heard a lot about visual impact that this may
cause.

Being that I'm a resident of Omao and also have
a farm there right across the street very adjacent to
where the proposed project is, I -- you know, I got to
tell you that I didn't drive this property. In my
younger days when I could ride a horse, I used to ride a
horse all the way back down to Spouting Horn and
Kukuiula, believe it or not.

And as you approach this property from right
across our property, you'll find that this property
slopes. It slopes down. And from where I'm at from
where we run the ranch; 'cause we run the ranch almost
300 acres of land from Koloa to Lawai; you know, and
I've been climbing all those hills back side of Omao and
Kalaheo, I don't believe there will be a significant or
great visual impact.

And as I stated before, I used to take the
horse, ride him all the way back down. I know almost
every hill, crevice and crack or puka there is on this
property. Come around Koloa Town, stop by a bar, have a
beer, and ride my horse back home. But that was the old
days.

Let me get into what I do now. Currently Omao
Ranch Lands, we run over 650, close to 700 sheep on our
property. Besides sheep, we also do cattle, and as most
of you know, my family has the largest hog operation in
the state of Hawaii. It's been in business since 1946.

On your property, I also have solar panels,
believe it or not. Several years ago we were one of the
pioneers of getting KIUC to agree or to support the idea
that we had of developing solar panels.

Those days, you know, when you first start,
it's a little skeptical about solar plants and the
effects of reflections and so forth that this may have
on the community. But we started, and I believe we're
the first ones to be the ones to put up solar panels.
We were very small as compared to the Kapaia solar plant
or the A&B solar plant. But in those days, there were
only three.

I run a 250-kW plant right off Kaumualii
Highway. You can hardly see it from either direction.
If you pass it, just past the Lawai post office heading
into Lihue, it's on the right-hand side of the road
facing Poipu south. Coming from Koloa, climbing up the
hill, passing our pastures all on the mauka side, look
far across, you can't even see it. But it's there. It's a small plant, but we believe that, you know, solar eventually will be the key for this island.

And, you know, once the plant was built, I had a little problem trying to maintain the area. So I told Arryl one day, Arryl, you better get your butt out there and help me. You've got to get under there and help me and really get out there, grab this weed eater. You know how to operate this weed eater, you know, put it -- set him it up and he kept going. So I was kind of smart enough to let him go to the tall grass area. I put him in a real tall grass area. I said, Go. I'm going to do this side, 'cause it's a little more slopey and hard, but go do that one. So he did that.

We're talking only two acres of land. Two acres of land, people. He came back a couple hours later, he said, Dad, this is backbreaking.

I says, Yeah, but I mean, somebody got to maintain it. I mean, the grass is going to grow over, we're going to lose production for the solar plants, you know, we're going to lose money from KIUC. We won't get paid, you know, at producing the power.

So he came up with the idea. He says, There's got to be a better way of doing this, you know, doing this. 'Cause you go to go under the panels, you've got
to lean over. An old man like me trying to weed eat under a panel.

So he came up with the idea of running sheep in there. At that time I had a herd of about 250, 300 sheep. Maybe 250 the most. And we did.

He said, You come out here one weekend, you and I will fence this place up and let's do it. And so we did it. And we found how effective they were able to maintain the area, to maintain the solar panels.

Today Omao Farms, as we go on there, maintains almost all the solar plants here on the island, the large solar plants with sheep. We initially did Koloa solar, and we're still doing it. We have 160 sheep there. We also went in to do Anahola solar to control the grass, to bring the grass down and later gave to a community member to maintain. Currently we also do Tesla/SolarCity that just came up a couple months ago. We run 250 head of sheep there.

So our idea would be, being where the location is, where the proposed solar plant is, will be a perfect place to also keep sheep and comply with the state statutes. As you know, state law, Section 205-4.5(a)21, you know, solar energy facilities on B and C rated ag land that exceeded 10 percent of the parcel or 20 acres, whichever is less, are to seek approval of the special
permit and provide land for compatible agriculture activities.

So, Commissioners, what is more than compatible than having sheep graze there, possibly 400 sheep, maybe up to 500 sheep? You know, we need to do some analysis and see how we can do that. And also continue to provide agricultural products to our island.

This is the goal. This is the goal that we do as we work cooperatively with the different solar entities to be able to achieve that.

And I started Omao Ranch Lands with that always in mind. It wasn't an idea to make money. It wasn't an idea to develop. It wasn't an idea to farm. It was a passion for me to do it. And still today we're still doing it. But at the same time, we're doing it, I think, in a better way.

So in closing, in closing, and, you know, in basically the plan that I wrote, I just want to share this with all of you. Omao Farms understands the importance of vegetation control under and around the solar panels and throughout the facility and the challenges associated with that maintenance.

It is a delicate and careful balance to maintain vegetative cover to prevent soil erosion during rain events, but also not allowing the vegetation to
grow too high and interfere with the solar panels to provide clean, renewable power to KIUC for integration into their distribution system, ultimately reducing the cost of electricity to Kauai consumers. Thank you.

CHAIR KEAWE: Thank you. Mr. Belles.

MR. BELLES: And my final comment will be that if you look on Exhibit 37, which is the Supplement No. 2 to the planning director's report, you have attached to that a letter dated September 19, 2017, from Department of Agriculture in which they support the application and also make reference very fondly to the operations of Mr. Kaneshiro and state that it's in full compliance with the purpose and intent of Section 205-4.5(a)21 of the Session Laws of the State of Hawaii in enabling the complementary uses of utility scale solar energy generation and local food production on B and C class ag land.

CHAIR KEAWE: Thank you. Mr. Hull, do you have any questions of this witness?

MR. HULL: The department has no questions.

CHAIR KEAWE: Commissioners, anything of this witness?

Just one real quick question. Someone asked in the audience earlier about a market for the sheep itself as far as a product.
DARYL KANESHIRO: Yeah. Is this on?

MR. BELLES: Yes.

DARYL KANESHIRO: I believe we could probably push out about -- it depends on the size of the herd. If we've got about 400 to -- 400 sheep there, we could probably push out about 240 or 250 a year.

How I market my product is that I used to go to the ranchers, and I used to do all of that. But today my focus really is to grow the product rather than to market it. I market it through a wholesaler, Mr. Sanchez, that has slaughterhouse and also a processing plant.

Whenever our market demands, I bring 'em back to the our ranch in Omao adjacent to where the project has been proposed. And when I have a herd of about 40, 50, he'll come over, he'll drive over, he'll pick it up, and he'll market it for me.

So it is in high demand. You know, I've got to say it is in high demand. And even with the 650 head of sheep I have now, I cannot keep up with his demand.

CHAIR KEAWE: So, Mr. Kaneshiro, how many employees do you have?

DARYL KANESHIRO: Currently two, three with me. But, you know, you can't count me as an employee. I don't get paid (laughter). I do the work. So -- and
hoping with an operation like this, I could probably bring in two more. So we'll probably have -- I have two full-time ones right now.

CHAIR KEAWE: Right.

DARYL KANESHIRO: Double full time with me, and probably bring in two more guys that could help with this operation.

CHAIR KEAWE: So the final product is marketed retail to store outlets?

DARYL KANESHIRO: Store outlets.

CHAIR KEAWE: Here --

DARYL KANESHIRO: Yeah. Go ahead.

CHAIR KEAWE: And in other areas in Honolulu or just strictly here?

DARYL KANESHIRO: If -- we focus, we always focus locally to the restaurants here on the island and also to the stores. But I believe, you know, given that amount of sheep, we still won't be able to meet the demands to even get the product out of Kauai.

CHAIR KEAWE: Okay. Thank you. Mr. Belles.

MR. BELLES: That clearly concludes our presentation, and I would like to thank you again for your patience.

CHAIR KEAWE: Thank you, Mr. Belles. I
think we're going to take a lunch break now. We will reconvene, let's see. How about let's reconvene at 1:20. Thank you.

MR. BELLES: Thank you very much.

(Break from 12:08 to 1:20.)

CHAIR KEAWE: I would like to call this special meeting to order.

Mr. Belles, would you like to continue at this point.

MR. BELLES: No, Mr. Chairman. Thank you very much, but we have concluded our presentation.

CHAIR KEAWE: Mic.

MR. BELLES: Thank you, Chairman, but no. We've concluded our presentation.

CHAIR KEAWE: Okay. Could you hold on just a minute.

Commissioners, is there -- are there any questions for Mr. Belles that you need answered in order for us to move forward to potentially make a decision?

MR. BELLES: I will add one more comment. It's hard for a lawyer, so I apologize.

We do have all of our consultants, we asked them to stay. So if you want to revisit any issues with any of our consultants or our witnesses, we would be more than happy to bring them back.
CHAIR KEAWE: All right. So back to -- back to making a decision. Let's see. Why don't we -- why don't we -- you know, I'll just kind of solicit comments. So, Commissioner Ho, do you have any comments on what we've heard so far in regard to this case?

COMMISSIONER HO: No comment.

CHAIR KEAWE: Okay. Commissioner Streufert.

COMMISSIONER STREUFERT: I think you know I that have some concerns. I like the idea of solar. I think that's -- we're going to have to go there or some kind of wind power or something like that.

My concern is -- my concerns are there is a visual impact. It may not be from the road, but it is from all of the residential areas higher than the location. And that's most of Kalaheo, part of Omao, and part of Lawai. With that, I'm not sure how that -- whether that can be mitigated, and I'm looking to the commission for that.

I do believe that we need more open space, and that is part of the community values in the 2000 general plan, and it's also in the state documents. It's something that we are looking for, and this is an area that it's a very large area. It's four times the area that you have at Port Allen right now, which is a large
area to begin with. But this is even larger, it is larger.

It is in the middle of a residential area that poses some issues for me. And there is really, according to -- and I'm sorry, I don't remember which one, but someone that said that Kauai is an island that's pretty low. And so, therefore, anywhere on the island is relatively low than anywhere else in terms of having a solar farm and in terms of the amount of sunlight you get from it.

And so from that perspective, this particular space is not -- the criteria are not set so that this would be the only space on the island.

I realize that the notification is about 300 feet within from prox- -- in proximity of whether -- on Kauai because of the topography, I'm not quite sure that that's sufficient because their view planes are not just horizontal, they're actually vertical. There's lots of people I know at the top.

There are some concerns that were identified about health issues. But more than anything else, I'm really looking at the open plane, open space issue because once it's gone, it's gone. And the whole topography, the whole area in that -- in Koloa, Lawai, Kalaheo, Omao, that area is rolling planes, it's green
right now. It's a beautiful area. That's -- that's something that we might want to preserve. Because once it's gone, it will be very difficult to get it back.

I'm glad that there's no archaeological findings that would -- that we would be disturbing. Do you have some -- I do have a lot of respect for the Hawaiian culture, for what it's accomplished, if no other than the Hokulea which is now in Hanalei. It shows that it's a very advanced civilization, although they may not have had a written language.

In terms of connection point or access to connections, I think we've established that it's all over this island, the transmission connections. And so it's not quite -- it doesn't have to be in that particular area.

I can't say anything about the terms and prices that we have there because that's not something that -- or what's available.

And although you have sheep that might be grazing to keep the vegetation down, I'm not quite sure that that constitutes agricultural land. Yes, it is, but the fact is it's not going to look like agricultural land. It's going to look like a solar farm, and a large solar farm.

I would like to have -- I would like to have
seen more input from people from the west side 'cause they're not well represented here.

So those are my concerns. But I do appreciate the fact that KIUC is going solar in renewable energy, and we're getting away from oil dependence.

I like the process of utilizing it for agricultural as well as for energy. I'm just concerned about the where, the what, and the how. That's it.

Thank you.

CHAIR KEAWE: Thank you. Mr. Mahoney.

COMMISSIONER MAHONEY: Well, I respect Commissioner Streufert's view. But on this particular case, I think a lot of these issues have been mitigated. I think it's satisfied a lot of -- you know, is there a perfect place, an absolute perfect place? No, but I think the connections and the mandate that we're going to -- that we have for electricity on this island is imperative. And I think there's been a lot of effort.

Are you going to be able to see them from someplace? You are.

But I think, you know, the technology there -- that they're using the non-reflective panels, you know, the landscaping that will be around, and, you know -- and even the sheep. I think, you know, I think is a pretty innovative idea to continue that in that area.
And it is connected to, I think, some important pathways to make this a successful project.

So having considered that and listening to the -- all of the people that have testified about the cultural, the birds, and technology, I would be in agreement that this is a good place to put it, and I would be supportive of it.

CHAIR KEAWE: Commissioner Lord.

COMMISSIONER LORD: Thank you, Chair. I think with any project of this scale and size, we're talking about tradeoffs. And, you know, clearly there's a public need for Kauai to get, to the extent that it's possible, off of fuel. The idea of sustainability is an important concept, and it's in alignment with the general plan.

And I think the applicant has thought through a lot of the mitigation needs of a project of this size, and I hope that they'll continue to do so as we all know projects of this size create issues that come up that can't be foreseen at this time. So I hope that you will work with -- if it does get approved, that you will be working with the stakeholders and the affected parties to mitigate anything negative that may come up as the project comes online.

And I do like the complementary use of the
sheep as an agricultural component.

So overall, I'm in favor of the project. I think that the benefits outweigh the negatives. So I will be voting in favor.

CHAIR KEAWE: Okay. Thank you, Commissioners, for your input. I can give my sentiments.

I think, you know, we all talk about sustainability and the tremendous effort by KIUC to get us off of fuel oil. Many of us remember the days when we were paying 42 cents a kilowatt hour. And this is a major step along with the strategic plan that they have to get sustainability, you know, systems online.

And it's never -- you know, everybody agrees, we want to be sustainable, but don't put it in my back yard. And I think this is a classic case. Unfortunately, this back yard is, you know, 200 acres. But again, the ultimate result for all of us in the long term on Kauai is hopefully lower rates.

You know, Mike, I have, you know, positive comments with regard to the efforts you've gone through to make sure you touch all the bases and hit all the points that need to be done, and especially with regard to archaeological surveys and cultural surveys. You know, in recent years it's become much more important.
In previous years, it wasn't as important. But now we've got a younger generation out there, and they're more concerned with the aina and their land and making sure that what is done is not incongruent with what the purposes were initially.

So like Commissioner Lord said, if this is approved, I assume and hope that the applicant or petitioner would continue those efforts with the community to make sure that there's a link, a positive link, and people can feel comfortable, hey, what were you guys doing? If something happens, they could actually go to someone, make a connection to express their concerns.

So, Mr. Hull, could you please read the decision and order.

MS. HIGUCHI-SAYEGUSA: Go through any recommendation.

CHAIR KEAWE: Yeah, I'm sorry. Yeah, it's 25 pages. Sorry. Can you go over the recommendations?


And also for a point of correction, the public notice did have listed the permit numbers in opposite to that and listed it incorrectly. So, for the record,
we're just stating that those are inaccurate permit numbers, but everything else was appropriate and correct as far as the location and notification, though.

But the department is recommending that those three permits be approved and that the commission adopt and approve the submitted findings of fact, conclusions of law, and decision and order.

The one that was recently passed out was an updated one that was attached to Supplemental No. 1. Essentially the only changes that were made were, there was an error including the LUC, the Land Use Commission, within the decision and order because it has -- the Land Use Commission, it shouldn't have that body in the decision and order, as well as the two conditions of approval recommended by the Office of Planning have been now added to the recommendations of approval.

And the last condition of approval is also being added after public testimony that prior to building permit submittal, the applicant shall hold a public meeting for residents in the area of Lawai, Omao, Koloa, Kalaheo, and Poipu to review the construction plans and as well to solicit input and mitigate where possible concerns are raised. So that's an additional condition of approval that we've inserted.

We submitted this decision and order to all the
commissioners. We submitted to the applicant, and there
are copies available on the left desk over there for
members of the public if they'd to review it.

But again, the department is recommending
approval and adoption of the submitted findings of fact,
conclusions of law, and decision and order for the
subject permits.

CHAIR KEAWE: Thank you. Mr. Belles, have
you had a chance to review the revised decision and
order?

MR. BELLES: Yes, we have, Mr. Chair.

CHAIR KEAWE: Do you concur?

MR. BELLES: Yes, we do, Mr. Chair.

CHAIR KEAWE: With all the conditions?

MR. BELLES: Yes, we do, Mr. Chair.

CHAIR KEAWE: Thank you. Commissioners,
are we ready to make a decision?

COMMISSIONER MAHONEY: Chair, I move to
approve the Class IV Permit Z-IV-2018-1, Use Permit
2018-2, Special Permit SP-2018-1, and adoption of the
conclusions of law.

CHAIR KEAWE: Thank you. Do I have a
second.

COMMISSIONER LORD: I'll second.

CHAIR KEAWE: It's been moved and seconded.
Any discussion? (No response.)

If not, we'll do a roll call vote. Jodi.

MS. HIGUCHI-SAYEGUSA: Roll call vote, the motion is to approve and also to approve and adopt the decision of proposed findings of fact, conclusions of law, and decision and order.

Commissioner Streufert.

COMMISSIONER STREUFERT: No.

MS. HIGUCHI-SAYEGUSA: Commissioner Mahoney.

COMMISSIONER MAHONEY: Aye.


Commissioner Ho.

COMMISSIONER HO: Aye.

MS. HIGUCHI-SAYEGUSA: Commissioner Ahuna. Absent.

Commissioner Lord.

COMMISSIONER LORD: Aye.

MS. HIGUCHI-SAYEGUSA: And Chair Keawe.

CHAIR KEAWE: Aye.

MS. HIGUCHI-SAYEGUSA: It's approved.

CHAIR KEAWE: Motion is approved.

MR. BELLES: Thank you all so very much.

CHAIR KEAWE: Thank you.
MR. BELLES: I really appreciate it.

CHAIR KEAWE: All right. If there's nothing else on the agenda for this particular agenda.

MR. HULL: There's nothing else on the agenda, so you have to adjourn this agenda, I believe.

MS. HIGUCHI-SAYEGUSA: Yeah, the 902 special meeting agenda.

CHAIR KEAWE: Okay. I will entertain a motion to adjourn this meeting, and to open the next meeting, which is the 901 agenda.

COMMISSIONER: Chair, move to adjourn the 902 agenda and open the 901.

CHAIR KEAWE: Okay. Do I have a second?

COMMISSIONER: Second.

CHAIR KEAWE: Moved and seconded. All those in favor. (Ayes.)

Any opposed? (No response.) Thank you.

(Concluded at approximately 1:37 p.m., September 26, 2017.)

* * * * *
CERTIFICATE

STATE OF HAWAII )
 ) ss.
COUNTY OF KAUA'I )

I, TERRI R. HANSON, RPR, CSR 482, do hereby certify:

That on Tuesday, September 26, 2017, at 9:03 a.m.; that the foregoing Planning Commission public hearing and agenda, Re: In the Matter of the Application of Aes Lawa'i Solar was held;

That the foregoing proceedings were taken down by me in machine shorthand and were thereafter reduced to typewritten form under my supervision; that the foregoing 131-page transcript represents to the best of my ability, a true and correct transcript of the proceedings had in the foregoing matter.

I certify that I am not an attorney for any of the parties hereto, nor in any way concerned with the cause.

DATED this 4th day of October, 2017, in Lihue, Hawaii.

______________________________
TERRI R. HANSON, CSR NO. 482
Registered Professional Reporter