

**EXHIBIT "29"**

# CULTURAL SURVEYS HAWAII

ARCHAEOLOGICAL, CULTURAL, AND HISTORICAL DOCUMENTATION SERVICES — SINCE 1982

September 22, 2017

Kauai Planning Commission  
c/o County of Kauai Planning Department  
4444 Rice Street, Suite A473  
Lihue, Kauai 96766

RE: Petition of AES LAWA'I SOLAR, LLC, a Delaware limited liability company, for a Use Permit, a Class IV Zoning Permit, and a Special Permit for real property situated at Koloa and Lawa'i, Kona, Kaua'i, Hawaii'i, Tax Map Key No. (4) 2-6-003:001 (por.).

Dear Commissioners:

My name is Hallett Hammatt and I am the Proprietor and Principal Archaeologist of Cultural Surveys Hawaii Inc., an archaeological and cultural resources consulting firm. I supervised the preparation of the archaeological inventory survey (AIS) and cultural impact assessment (CIA) for the Lawa'i Solar and Storage Project. I have been directly involved in managing archaeological projects in Hawaii since 1976 and have been the principal investigator and president of Cultural Surveys Hawaii since 1982.

In late 2016 and early 2017 respectively, the Kaua'i Island Utility Cooperative (KIUC) awarded a Power Purchase Agreement (PPA) and Interconnection Agreement to AES DE after a competitive bid process in which KIUC sought proposals for a solar PV and energy storage solution to serve the island of Kaua'i. The proposed project will be constructed and operated by AES Distributed Energy (AES DE) and its affiliate AES Lawa'i Solar, LLC, and will consist of an approximately 28 MW direct current (DC) / 20 MW alternating current (AC) ground-mounted solar PV system, coupled with a 20 MW – 5-hour (100 MWh) BESS, and related interconnection and ancillary facilities. The major project components will include solar PV panels, BESS containers, inverters, and a project substation; these components will occupy a total of approximately 196 acres. In addition, the project will include two construction staging areas, totaling approximately 14 acres. The project will be located on former sugar cane land owned by Alexander & Baldwin (A&B). A&B and AES Lawa'i Solar, LLC have fully executed a grant of easement agreement for the use of a portion of a larger approximately 1,062-acre parcel (tax map key [TMK] 2-6-003:001).

## Archaeological Inventory Survey

The Archaeological Inventory Survey (AIS) for the Lawa'i Solar and Storage Project (dated September 2017) was prepared in fulfillment of the requirements of the Hawaii Administrative Rules (HAR) Chapter 13-13-276. It was conducted to identify, document, make significance recommendations, and make Hawaii Register of Historic Places (Hawaii Register) eligibility recommendations for historic properties within the 221-acre project area, which incorporates the entire footprint of the proposed solar and



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storage project and associated staging areas. The investigation includes a project-specific effect recommendation and treatment/mitigation recommendations for the historic properties within the project area that are recommended Hawaii Register eligible. The AIS is intended to support the proposed project's historic preservation review under Hawaii Revised Statutes (HRS) Chapter 6E-42 and HAR Chapter 13-13-284. It is also intended to support project-related historic preservation consultation with stakeholders, such as state and county agencies and interested Native Hawaiian community groups.

As documented in the AIS, two historic properties are located within or near the project area:

- SIHP # 50-30-10-1051 was identified by Hammatt and Shideler (2007) and described as having two features (No. 18 Reservoir Ditch and No. 19 Reservoir Ditch). In consultation with the State Historic Preservation Division (SHPD), SIHP # 50-30-10-1051 is assigned to plantation infrastructure features of the former McBryde Sugar Plantation. The two earthen ditches were revisited and an additional 31 features were identified and assigned to the following feature groups: Feature A is an open ditch with culverts and sluice gates, Feature B is an open ditch with culverts and sluice gates, Feature C is a network of plantation roads, Feature D is earthen berms, Feature E is the Aepo Stream reservoir system, Feature F is a ditch section, and Feature G is a pipe. These features are assessed as eligible under Criterion d.
- SIHP #50-30-10-0073 was identified by Wendell Bennett (1931) and described as Site 73, stone work. This site was revisited and confirmed to be a plantation field-rock clearance mound. A second field-rock clearance mound was identified near SIHP # -0073 and is assigned SIHP # -0073 Feature 1. The previously identified historic property SIHP # 50-30-10-0073 and the newly identified SIHP # 50-30-10-0073 Feature 1 are assessed as significant under Criterion d.

Subsequent to the AIS pedestrian survey, the project area was reduced, such that SIHP # -1051 Feature F, SIHP # -1051 Feature G, SIHP # -0073, and SIHP # -0073 Feature 1 are no longer within the project area. No incursion would occur in SIHP # -1051 Feature E. For all other features of SIHP # -1051, the project-specific effect determination is "effect, with agreed upon mitigation commitments."

Recommended mitigation is archaeological monitoring, following completion of a SHPD-accepted archaeological monitoring plan (AMP), in accordance with HAR §13-279. The AMP should include specific provisions for archaeological documentation during construction in accordance with HAR §13-278 for SIHP # 50-30-10-1051 Features A through D.

The AIS was accepted by the SHPD by letter dated September 15, 2017.

## Historical Background

In 1876, Queen Emma leased the land of Lawa'i to Duncan McBryde for fifteen years, and in 1886, after the Queen's death, Mrs. Elizabeth McBryde bought the entire ahupua'a. Mrs. Elizabeth McBryde bought the 12,000 acres in the Kona section of Kaua'i in 1886 and in 1899 her lands along with the McBryde estate joined to form the McBryde Sugar Company. The upper lands were planted with sugar cane, and the valley leased to Chinese rice growers and taro planters. The McBryde Sugar Co. map shows the Lawa'i Stream Valley was surrounded to the east and west by sugar cane lands (Conde and Best 1973).



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The McBryde Sugar Company started its railroad operations in 1899. Expansion of cane fields and plantation rail lines was rapid; by 1903, McBryde had completed rail lines to its Koloa fields and Koloa Landing. By 1947 all cane hauling activities were taken over by trucking.

Between 1900 and 1907, the McBryde Sugar Company constructed 30 large and small reservoirs, as well as an extensive system of ditches to collect water from the uplands (Yamanaka and Fujii 2001), probably including the Aepo series (Aepo, Aepoalua, Aepoekolu and Aepoeha) of reservoirs. The development of these modest reservoirs is not well documented in the readily available literature. The lands around these reservoirs are understood to have been under sugar cane cultivation in the 1800s.

The 1912 USGS Kaua'i map clearly shows that the ditches within the present project area, now known as SIHP # 1051 Feature A-the No 18 Reservoir Ditch and SIHP # 1051 Feature B-No 19 Reservoir Ditch, were extant at that time even though completion of the Aepo series of reservoirs is not shown on the map.

Koloa Landing was phased out around 1925 when McBryde Sugar Company and Koloa Sugar Company began using Port Allen. Soon after, McBryde ceased to use several of the Koloa fields. The Foote et al. soil map ortho-photograph indicates the majority of the project area was still in sugar cane circa 1970. McBryde Sugar Company ended sugar production in 1996. In the vicinity of the project area, the former cane land is used as pasture for grazing cattle and for tenant farming.

## Cultural Impact Assessment

The Cultural Impact Assessment for the Lawa'i Solar and Storage Project is dated September 2017. Through document research and ongoing cultural consultation efforts, this report provides information pertinent to the assessment of the proposed project's impacts to cultural beliefs, practices and resources. The document is intended to support the project's environmental review and also serves to support the project's historic preservation review under HRS §6E-42 and HAR §13-284.

Outreach to Hawaiian organizations, agencies and community members was conducted in order to identify potentially knowledgeable individuals with cultural expertise and/or knowledge of the project area and the vicinity. Outreach included efforts to contact approximately 59 parties by letter and email. The organizations contacted included the SHPD, the Office of Hawaiian Affairs (OHA), the Kaua'i/Ni'ihau Island Burial Council (KNIBC), Kaumuali'i Hawaiian Civic Club and the Kaua'i Museum. Individual community members of the Koloa District were also contacted to identify potentially knowledgeable individuals with cultural expertise and/or knowledge of the project area and the vicinity.

Feedback and/or referrals were received from the following parties: Ka'ahiki Solis (Cultural Historian at SHPD); Dr. Kamana'opono Crabbe (CEO, OHA); Chucky Boy Chock (Director of Kaua'i Museum); Wilma Holi (cultural practitioner); Chad Schimmelfennig (*kama'aina*); Ted Blake (*kama'aina*); Laurie Smith (long-time resident who lives near the project area). CSH had in-depth conversations (interviews or *huaka'i*) with Ted Blake, Chad Schimmelfennig, and Wilma Holi.

Ted Blake told us in phone calls that he was not aware of any ongoing cultural practices in the area. He assisted in putting us in touch with Chad Schimmelfennig and also gave us a tour of the project area with Allen Reis (caretaker for A&B properties in Koloa/Lawai). Chad Schimmelfennig indicated that disruption of ancient or historical sites is not a concern as any damage would have already been done during



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the plantation era. Wilma Holi also pointed out that any sites and religious figures were destroyed by the plantation and that she does not know of any burials located within the project area.

Recent extensive archaeological testing and monitoring has been conducted in hundreds of acres of former McBryde cane land in Kukui'ula, Lawa'i. This cane land is immediately *makai* of the project area where remnants of sugar cane plantation infrastructure is present, and no evidence of pre-contact land use has been found.

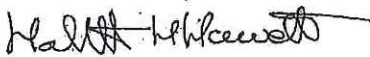
In *Ka Pa'akai v. Land Use Commission*, 94 Hawai'i 31, 74, 7 P.3d 1068, 1084 (2000), the Court held the following analysis be conducted:

- (1) The identity and scope of valued cultural, historical, or natural resources in the petition area, including the extent to which traditional and customary native Hawaiian rights are exercised in the petition area;
- (2) The extent to which those resources – including traditional and customary native Hawaiian rights – will be affected or impaired by the proposed action; and
- (3) The feasible action, if any, to be taken by the LUC to reasonably protect native Hawaiian rights if they are found to exist.

The CIA found that there are no known traditional and customary native Hawaiian rights exercised in the petition area. Under the *Ka Pa'akai* Case, the required analysis therefore ends after the determination that there are no known traditional and customary native Hawaiian rights exercised in the 221-acre project area.

Should cultural or burial sites be identified during future ground disturbance in the project area, all work will immediately cease and the appropriate agencies will be notified pursuant to applicable law.

Sincerely,



Hallett H. Hammatt, PhD  
President



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