

1 prepare their argument, and that might be a much
2 shorter timeframe, two to three months.

3 As far as the Motion to Amend, we
4 understand that there's different studies and other
5 things that they need to do, maybe even some Chapter
6 343 study so that it would be -- it could be shorter
7 than a year. I'm not sure. I would probably defer
8 to Petitioner to give us a ballpark of what they need
9 to do and what timing they can go with less than a
10 year.

11 COMMISSIONER OKUDA: The reason why I'm
12 asking this question is, I share my lawyer colleague
13 Commissioner Wong's concerns that when --

14 CHAIRPERSON SCHEUER: For the record, not
15 an attorney.

16 COMMISSIONER OKUDA: -- but when things go
17 beyond ten years, it is kind of long. But at the
18 same time, if parties are acting in good faith, and
19 if they have certain projects in mind which would
20 satisfy community goals such as education, welfare,
21 things like that, you know, those are relevant
22 factors to take into account.

23 Do you think it would be
24 reasonable/unreasonable where, you know, a further
25 hearing on the Order to Show Cause be scheduled maybe

1 three, four or five months, but to take into account
2 that if, for example, the Petitioner, you know, is
3 showing diligence in moving forward with a concrete
4 plan, that maybe that short fuse hearing can be moved
5 or continued; but on the other hand, if there isn't
6 actual evidence of diligence and moving forward,
7 then, you know, the Order to Show Cause matters can
8 be heard and a decision rendered?

9 MS. APUNA: Yes, I think that's a good
10 position for the Commission as far as having that
11 flexibility based on the circumstances that arise
12 over time. So I would agree with that.

13 COMMISSIONER OKUDA: Thank you very much.

14 CHAIRPERSON SCHEUER: Are there further
15 questions for the Office of Planning?

16 Commissioner Chang.

17 COMMISSIONER CHANG: Mr. Chair, this is the
18 Motion to Rescind the Order to Show Cause, because of
19 the Motion to Amend, but are you -- are we asking
20 questions related to the Order to Show Cause and the
21 stipulation?

22 CHAIRPERSON SCHEUER: Because of the
23 interrelated nature of the motions, you can ask a
24 broader question, but the portion of the procedure we
25 are in right now is considering the Petitioner's

1 Motion to Rescind the Commission's Motion for the
2 Order to Show Cause.

3 COMMISSIONER CHANG: Following in the line
4 of questioning from Commissioner Okuda two questions
5 to OP.

6 Would you agree that we have 365 days upon
7 which a decision needs to be made on the OSC?

8 MS. APUNA: Not necessarily. You want me
9 to expand?

10 COMMISSIONER CHANG: Please, go ahead.

11 MS. APUNA: I believe under Aina Le'a 365
12 is with regards to if there is a finding that there
13 is no substantial commencement -- I'm sorry, that
14 there is substantial commencement that, therefore,
15 the reclassification or reversion basically becomes
16 the district boundary amendment. The Commission
17 needs to reclassify, so they're referring to the 365
18 days with regards to like a DBA, a new DBA because
19 you're reclassifying because there has been
20 substantial commencement.

21 COMMISSIONER CHANG: But if there has been
22 a finding of no substantial commencement, use of the
23 land, that we would be bound by 365 days?

24 MS. APUNA: I'm not sure it's clear. I
25 wouldn't say that's necessarily correct. If you are

1 going to revert based on no substantial commencement,
2 it would be automatic, it would be a void of the D&O.
3 That would be -- and I don't believe that the court
4 spoke to 365 days with regard specifically to when
5 there's no substantial commencement and it's just a
6 voiding of the D&O.

7 COMMISSIONER CHANG: I guess I'm looking at
8 the Bridge Aina Le'a case, and I'm looking at -- I
9 guess it would be page 7-11, it says:

10 Finally, the LUC must revolve the reversion
11 or reclassification issue within 365 days, HRS
12 205-4(g).

13 MS. APUNA: I think there's a couple
14 paragraphs above that they're referring specifically
15 to where there hasn't -- has been a substantial
16 commencement. I think it's specific to substantial
17 commencement, therefore, doing a district boundary
18 amendment as opposed to voiding the D&O, and just
19 simple and immediate reversion to the original
20 classification, I think.

21 COMMISSIONER CHANG: I'm reading it. I
22 don't want to belabor that question, but if -- since
23 there is some uncertainty, would you again have no
24 issue with shortening that time period to ensure it
25 is within 365 days?

1 MS. APUNA: That would be fine. OSC was
2 issued I think back in November of 2018, stay within
3 the -- I'm not sure exact date, it would issues stays
4 within 365 days of the OSC, OP would not object to
5 that.

6 COMMISSIONER CHANG: The other question
7 that I have is with respect to, what under the
8 stipulation is subject to prohibition of certain
9 types of activities. Sounds like primarily limited
10 to ground disturbing activities.

11 I guess I'm trying to avoid the Bridge Aina
12 Le'a situation, where the Commission did give them an
13 opportunity to go, continue on, and that became now
14 the basis upon which the facts ended up turning
15 around to say there was substantial commencement.

16 So in your mind, is putting up fences,
17 doing surveys, improving fire breaks, drilling for
18 water sources, do you think that is related to ground
19 disturbance activities?

20 MS. APUNA: Not for the purposes of
21 developing the project as represented in the current
22 D&O. I think that the reason for like fire breaks,
23 those are safety reasons, and that's not with regard
24 to the purpose of the project.

25 I think these things also would not disrupt

1 the use of the land should it revert back to
2 agriculture. But basically I think Office of
3 Planning's position is when it comes to substantial
4 commencement, it would have to be the moving of the
5 land, touching of the land such that it's toward the
6 development of the project, and we don't believe
7 these things listed here fall under that umbrella.

8 COMMISSIONER CHANG: Thank you.

9 CHAIRPERSON SCHEUER: Commissioners,
10 anything further for the Office of Planning?

11 If not, Petitioner, you have the chance to
12 rebut.

13 MS. GARSON: I have no rebuttal.

14 CHAIRPERSON SCHEUER: Commissioners, are
15 there any further questions for any of the parties,
16 particularly the Petitioner?

17 If I may say something at this point in the
18 proceedings.

19 Having been through a few order to show
20 causes, some of which resulted in reversion, some of
21 which resulted in continuance, I harken back to my
22 colleague, Malia Akutagawa. She has a beautiful
23 summarization of what the Ka Pa'akai analysis is.
24 There's a legal description on it, but then there's
25 like what you're doing is like: "What get?" "What

1 going happen?" "What you going do?"

2 Similarly in these proceedings it's: "You
3 did what you said you was going do?" "You did
4 anything?" "Oh, if not, how come?" Right?

5 When, as the Petitioner you come in with
6 these procedural arguments about due process, we
7 obviously have to slow down. Take it very seriously.
8 Those are very, very serious accusations.

9 But we are getting away from the real
10 simple, water, important questions on this docket,
11 which is: "Did you do what you said you was going
12 do?" "Did you even start?" "If you didn't start,
13 what, you got good reason?"

14 And I think you're trying to get to is, you
15 know what, we got good reason. Stuff happened. We
16 want to do some other things.

17 If you want to -- I'm going to say this the
18 last time -- if you have the opportunity at any point
19 to withdraw this motion to rescind, and we can
20 actually get on with the substance of: "You did
21 anything?" Right? "You know, what you did? Did you
22 do anything?"

23 Or if you got good reason, we could get to
24 that and some of your other motions, or we can take a
25 ruling right now on the Motion to Rescind. Up to

1 you.

2 I think this Commission, speaking for
3 myself, not having consulted with them, but the tenor
4 of the questioning, we want to get on to the
5 substance of things, not the procedural things,
6 because we will be here two days if we go in that
7 direction.

8 MS. GARSON: Would you mind if we take a
9 couple minutes?

10 (Recess taken.)

11 CHAIRPERSON SCHEUER: We are back on the
12 record.

13 MS. GARSON: I was just going to ask for
14 perhaps a ten-minute recess if that would be okay.

15 CHAIRPERSON SCHEUER: We may. In that
16 case, I would like to take a longer recess for lunch
17 to allow the Commissioners to eat.

18 MS. GARSON: That would be fine.

19 CHAIRPERSON SCHEUER: It's 11:55. Is it
20 reasonable for all the parties that we reconvene at
21 12:45? We will reconvene at 12:45. Thank you very
22 much.

23 (Noon recess taken.)

24 CHAIRPERSON SCHEUER: We're back on the
25 record.

1 Petitioner, Ms. Garson.

2 MS. GARSON: Thank you for allowing us that
3 time.

4 CHAIRPERSON SCHEUER: Absolutely.

5 MS. GARSON: In the interest of trying to
6 work something out and allow the Petitioner time to
7 amend, Motion to Amend and continue the OSC, we will
8 withdraw the Motion to Rescind.

9 CHAIRPERSON SCHEUER: Thank you very, very
10 much.

11 So, Commissioners, the Motion to Rescind
12 the Commission's Motion on the Order to Show Cause
13 has been withdrawn. Because of that, we will now
14 take up the next portion of the motions from the
15 Petitioner which is -- allow me one second to get --
16 the Motion to Continue the hearing on the Order to
17 Show Cause to give the Petitioner more time to
18 prepare.

19 We are going to go through this, and as I
20 said before the County was back in the room, we're
21 hoping to try to wrap up by 2:30, 2:45-ish if
22 possible. I say to all the parties, to the degree we
23 can keep allowing everybody the chance to speak and
24 present everything they need to keep our proceeding
25 as efficient as possible.

1 We will go through the same procedure:
2 Petitioner, County, OP on the Motion to Extend.

3 Are you ready, Ms. Garson?

4 MS. GARSON: Yes, I am.

5 Just for more time to proceed with the
6 Order to Show Cause -- I'm sorry, did I
7 misunderstand? I thought the next item was simply
8 just whether or not to continue the time for the OSC,
9 or are we discussing the continuance of the OSC to
10 allow the Petitioner time to file an Intermittent
11 Motion to Amend?

12 CHAIRPERSON SCHEUER: So --

13 MS. GARSON: I think we can combine them.

14 CHAIRPERSON SCHEUER: Excellent. You
15 anticipated what I was going to say.

16 So it was clear to me in designing the
17 order for today's hearing and working with staff that
18 we had to dispense with or somehow deal with the
19 Order to Rescind first. But after that, I'm actually
20 flexible as long as my fellow Commissioners are okay
21 with it. We can take it up in a combined matter, or
22 reverse the order.

23 So what is your suggestion, Petitioner?

24 MS. GARSON: Because we have the
25 stipulation from the County and OP, I think this can

1 be quickly addressed and hopefully resolved.

2 CHAIRPERSON SCHEUER: Just to clarify for
3 the record, you have two remaining motions before us,
4 correct?

5 MS. GARSON: Correct, to continue the OSC
6 and so we can have time to prepare for the OSC which
7 is next on the agenda, or for the LUC to continue the
8 OSC for one year so then we can file Amended Motion
9 to Amend.

10 CHAIRPERSON SCHEUER: Let me ask the other
11 parties. If we were to take the second motion first,
12 so to continue the OSC in order to provide some
13 period of time for the Petitioner to Amend their
14 Motion to Amend, are you procedurally okay with that?

15 Do you have any objections procedurally
16 that we would perhaps, if we granted that motion, we
17 would not be taking up the final motion to extend the
18 date for the Order to Show Cause hearing to allow
19 them to prepare for an order to show cause hearing,
20 because obviously their focus would be on the Amended
21 Motion to Amend, if that was clear as possible.

22 MR. KIM: It was Chair, thank you. No
23 objection from the County.

24 CHAIRPERSON SCHEUER: OP?

25 MS. APUNA: So we're taking --

1 CHAIRPERSON SCHEUER: It's a question. The
2 option is to take up -- I had said we were going to
3 first take up the motion on the order to extend the
4 time to respond for the Order to Show Cause
5 hearing -- not exact language -- and then take up
6 extending the time to allow them to -- motion to
7 amend.

8 I'm suggesting we can actually do the
9 second one first, as long as none of the parties or
10 my fellow Commissioners have a big problem with it.

11 MS. APUNA: I know it's a question, but the
12 agenda had --

13 CHAIRPERSON SCHEUER: The agenda was done
14 in the order that I first --

15 MS. APUNA: So we covered the Motion to
16 Rescind, Roman numeral V on the agenda was the action
17 on the Motion to Rescind, which we had dealt with.

18 Roman numeral VI is the hearing and action
19 on the evidence.

20 CHAIRPERSON SCHEUER: We're actually still
21 on V because we split V because there were separate
22 motions within the Petitioner's motion. And they
23 withdrew only a portion of the motion which was the
24 Motion to Rescind. There is still before us either
25 to continue the hearing --

1 MS. APUNA: Okay, no objection.

2 CHAIRPERSON SCHEUER: Commissioners, are we
3 clear?

4 COMMISSIONER ACZON: No objection.

5 CHAIRPERSON SCHEUER: Your suggestion is
6 fine, Ms. Garson. Let's proceed with that as long as
7 we're all clear where we are.

8 MS. GARSON: So our request is to continue
9 the OSC for one year to allow the Petitioner to come
10 back and file Amended Motion to Amend.

11 We've discussed this option with both OP
12 and the County and have come up with a set of terms
13 actually to allow us to do that. And I know you have
14 the stipulation in front of you, but just to address
15 some of the discussion before.

16 I believe that there is a number two
17 stipulation that the Petitioner shall submit a
18 written six-month status report to the Commission and
19 Parties no later than November 30th, 2019. This is a
20 stipulation. Obviously we agree to that.

21 I think that with that condition in there
22 we will come back to you and tell you where we are in
23 the process of amending the motion, and in that way
24 the Commission can monitor the progress.

25 Again, we took some time in negotiating

1 with the County and OP about the stipulation. And I
2 think it's reasonable.

3 Especially considering the County said that
4 the property really is in the Urban District, it is
5 Urban in the General Plan and Kona Community
6 Development Plan.

7 I think the Commission should take into
8 account that when considering our stipulation, and I
9 reserve the right to call witnesses to tell you.
10 Thank you.

11 CHAIRPERSON SCHEUER: Thank you.

12 Commissioners, are there questions for the
13 Petitioner? Commissioner Wong.

14 COMMISSIONER WONG: So getting this
15 straight. It's to give you more time to do
16 amending -- is that correct?

17 MS. GARSON: Correct.

18 COMMISSIONER WONG: So I think one of the
19 Commissioners here asked the question before lunch,
20 if we can do it, give you instead of a year, let's
21 say six months to three months.

22 Could you do that within one of those
23 shorter timeframes?

24 MS. GARSON: I think the problem with
25 shorter timeframes, the concern about the studies

1 that need to be updated. So we are asking for that
2 time, but we will come back in six months and give
3 you a status report at that time.

4 COMMISSIONER WONG: The reason I guess is
5 my recollection is there's something about a 365 days
6 for the Order to Show Cause that was brought up by
7 someone here, sorry, wasn't listening that well. But
8 anyway, it was more of a statement that there was 365
9 days, within that time we have to do something with
10 the OSC.

11 So if the timeframe was in November, we
12 have to do something within the November timeframe
13 from the last November to -- that's what I believe
14 what I heard. Something has to be done. And it's
15 now May, so it's kind of cutting it tight. Is that
16 correct?

17 MS. GARSON: I believe that the OSC was
18 issued March 29th of this year, so I think it's a
19 year from the issuance is what the Commission is
20 concerned with.

21 CHAIRPERSON SCHEUER: If I may. The
22 Commission has, in another docket, there's been no
23 ruling and no decision, but has been presented in
24 arguments in different Order to Show Cause hearings
25 we are bound to make a decision within 365 days, that

1 is the concern. If that position is correct, that we
2 would be procedurally running up into a problem per
3 the court's direction in Bridge the way some people
4 read that direction.

5 Does that help clarify what the concern is?

6 MS. GARSON: I understand the concern.
7 Perhaps I misread it, but when I was reading 205 I
8 thought if you stipulated that there could be an
9 additional 90 days, I'm sorry, that is a question. I
10 can look it up right now.

11 CHAIRPERSON SCHEUER: Without answering the
12 question, I think I can respond to say that there's
13 been this expressed concern, and there's not crystal
14 legal clarity about when we are obligated to make a
15 decision by. So what we don't want to do is extend
16 the time so long that we can no longer legally make a
17 decision.

18 MS. GARSON: I'll talk to my client about
19 this, but could it be then the last meeting before
20 the 365 days run?

21 CHAIRPERSON SCHEUER: Commissioner Chang.

22 COMMISSIONER CHANG: I guess it was more a
23 -- what is it exactly, because the way I heard the
24 previous statement from the client is that you
25 actually have a plan and you presented that.

1 So my question is, why would you need a
2 year to come back and give us an update? Couldn't
3 you within three months? You've already got a plan,
4 that's what I heard, you have a plan of how you're
5 going to develop the property, that you conferred
6 with your consultant as to what kind of studies need
7 to be done, if any new studies, give you an
8 opportunity to work with the County, and then within
9 that period of time, give us a status update, or at
10 least update the staff, but I'm having a hard time
11 understanding why you would need a year, given the
12 fact that representation has been made that you do
13 have a proposed development.

14 So I'm not clear why you would need so much
15 time to determine the studies when a lot of work may
16 have already been done.

17 MS. GARSON: The year included an update of
18 studies. So, for example, there was a TIAR that was
19 submitted within the 2006 application. Because it
20 was 2006, there have been road improvements since
21 then, so we're anticipating the need to update that
22 TIAR.

23 That's why we're also thinking that we
24 probably need a cultural impact assessment, those are
25 things, because of the time that the consultants take

1 to do that, we really wanted to have the year to come
2 back to present a full amended Motion to Amend.

3 Now, if you're asking for a status report
4 which is a plan, like a plan for how we're going to
5 come back to do the Motion to Amend, that could be --

6 COMMISSIONER CHANG: You're presuming that
7 we are not going to take action on the Order to Show
8 Cause. So I guess for me I would feel much more
9 comfortable if you came back sooner, within three
10 months, detailing the studies that need to be done.

11 Detailing and providing us a specific plan,
12 and how you're proposed -- what you're proposing, as
13 well as coordination with the County as to what kind
14 of additional permits, if any, need to be given.

15 But I think that, just to avoid -- because
16 there is some legal uncertainty as to the time
17 period, and we just don't want -- I think you would
18 appreciate that the Commission does not want to have
19 a Bridge Aina Le'a too, that we give you some
20 additional time, and then that time is used to
21 bootstrap, and say, okay, now we have substantial
22 compliance, so I think you appreciate where we are
23 coming from.

24 MS. GARSON: So you're more talking to --
25 yeah, okay, I understand.

1 COMMISSIONER CHANG: Thank you.

2 CHAIRPERSON SCHEUER: Commissioner Okuda.

3 COMMISSIONER OKUDA: Thank you, Mr. Chair.

4 My fellow Commissioners are a lot more
5 polite than me. The concern arises, and I could be
6 mistaken about what prior transcripts show, but it
7 might have been a member of your law firm in another
8 case that threw this argument at us, and there's
9 nothing wrong with lawyers making arguments and
10 advocating for their clients, because that's the
11 obligation under the rules of professional
12 responsibility to advocate for clients. But you can
13 also see that where a strong position is taken about
14 something because, you know, at least for me, I have
15 a lot of respect for the lawyers at your firm, and
16 the quality of work. You know, when an argument is
17 made that there might be a certain time deadline with
18 respect to decision-making in order to show cause
19 cases, we got to take that concern seriously in other
20 cases that we do. So that's the concern we have.

21 But in any event, in any event, would you
22 or your clients have a problem if your client
23 expressly agreed that during the time that no action
24 is taken by the Commission on the Order to Show
25 Cause, that your client will not argue that it took

1 any action during that time which constituted
2 substantial commencement of the use of the land, as
3 that term or phrase is defined in the Bridge Aina
4 Le'a case?

5 MS. GARSON: I'll have to ask them.

6 COMMISSIONER OKUDA: You can see our
7 concern. If we extend certain leeway on the time
8 deadline, it would make us look very irresponsible to
9 the appellate court that we didn't enforce conditions
10 that they told us to enforce, and then something else
11 like that happens. Okay, I understand that I can't
12 get an answer on that.

13 Would you or your client agree not to do
14 anything during the period of time where no action is
15 taken on the Order to Show Cause, that your client
16 will not do anything which would be considered or may
17 be considered substantial commencement of use of the
18 land as that term is defined under the Bridge Aina
19 Le'a case?

20 In other words, my first question dealt
21 with what argument you might make in this proceeding,
22 my second question deals with the actual conduct with
23 respect to the land. And just so that you know where
24 I'm going, I don't play hide the ball here. I don't
25 believe the issues in an order to show cause hearing

1 are that complex, just a question, what are the
2 conditions, and have these conditions been met.

3 And so, you know, my own personal opinion,
4 not speaking for anybody else on the Commission, is I
5 don't believe a lot of time is really necessary to
6 prepare for an Order to Show Cause hearing. And
7 unfortunately, the Supreme Court in Bridge Aina Le'a
8 case said, hey, LUC, your only remedy you have to
9 deal with failure to comply with conditions is revert
10 the property, void the boundary change.

11 If you give time, try to do stuff local
12 style or whatever with Petitioners -- you're going to
13 end up not being able to enforce these conditions.

14 CHAIRPERSON SCHEUER: If I may ask for
15 clarification for your question to the Petitioner.

16 In the stipulation that the three parties
17 have signed to, the first condition has to do with
18 not conduct any development activities with a certain
19 few exceptions relating --

20 COMMISSIONER OKUDA: Yeah, I understand
21 that. But the question is whether or not they would
22 agree that the activities would not be anything that
23 would be considered substantial commencement of use
24 of the land, just because sometimes the list is not
25 really exhaustive.

1 MS. GARSON: I understand. And again, I
2 would have to speak to them, because I need to
3 explain to them what that means. The stipulation in
4 three did reserve that right, but I understand that
5 you do not want another Bridge Aina Le'a case and I
6 can explain that to them.

7 COMMISSIONER OKUDA: Thank you, Mr. Chair.

8 CHAIRPERSON SCHEUER: We are going to go
9 through questions, more questions for you, have a
10 chance for the County to present, OP to present any
11 rebuttal.

12 You can choose to talk with your client,
13 and we can take a recess prior to taking a vote on
14 things as is appropriate.

15 Does that make sense? So this issue you're
16 deciding -- I'm trying to be very clean in my
17 language. You want to talk to your client about this
18 issue, there might be other issues you want to talk
19 to your client before you say to us, yes, we agree,
20 let's go through more of this hearing and see whether
21 we can --

22 MS. GARSON: Thank you very much.

23 CHAIRPERSON SCHEUER: Commissioners, we're
24 questioning the Petitioner. Further questions?
25 Commissioner Chang.

1 COMMISSIONER CHANG: I have a question.
2 The stipulation you're, one, it says essentially that
3 you're not going to do any ground-disturbing
4 activities.

5 Is there a reason why you choose
6 ground-disturbing activities?

7 MS. GARSON: OP put that in.

8 COMMISSIONER CHANG: I'll ask OP when we
9 get to OP.

10 CHAIRPERSON SCHEUER: Are there other
11 questions, Commissioners? If not, County.

12 MR. KIM: As the County did sign off on the
13 Party's stipulation, our position would be supporting
14 continuance to allow Petitioner to prepare amendment.

15 Now, with that said, we did sign the
16 stipulation agreeing to a year, but we respectfully
17 will defer to whatever time period the Commission
18 decides on, if the Commission does decide to grant
19 continuance.

20 CHAIRPERSON SCHEUER: Thank you. Are there
21 any questions for the County, Commissioners? Office
22 of Planning.

23 MS. APUNA: Thank you, Chair. OP would not
24 object to allowing a reasonable amount of time for
25 Petitioner to better prepare for the OSC proceeding

1 or to provide a revised motion to amend.

2 And we too would defer to the Commission's
3 decision as far as how long that stay or delay should
4 last.

5 CHAIRPERSON SCHEUER: Are there question
6 for the Office of Planning? Commissioner Chang.

7 COMMISSIONER CHANG: I'll restate my
8 question.

9 Under the stipulation, why were you -- why
10 was the selection of "ground-disturbing activities"
11 the limiting or the description of what they cannot
12 do?

13 MS. APUNA: I think that it's derived in
14 part from Bridge Aina Le'a. I think OP's position is
15 that there should be -- I mention for substantial
16 commencement there would be some movement of the
17 land, some touching the land. So I think that term
18 might have been used in that case, but something
19 similar to that.

20 COMMISSIONER CHANG: Are you comfortable
21 with the provisions in the stipulation relating to
22 revising plans, establish new and improved fire
23 breaks, preserve the archaeological sites and
24 continue and pursue the water resources and construct
25 security wall, that none of those activities, if the

1 Petitioner proceeded with those, would constitute
2 substantial commencement of use of the land?

3 MS. APUNA: We're comfortable with that.
4 Bridge Aina Le'a isn't completely instructive in this
5 area, but we believe that many of these things are
6 not within the project as far as what the goals of
7 the project are necessarily, as described in the
8 current D&O. We wish we had more guidance of what
9 substantial commencement means, but I think that
10 we're comfortable that if they do any of these things
11 and not beyond that, they will not have substantially
12 commenced use of the land.

13 COMMISSIONER CHANG: Thank you.

14 CHAIRPERSON SCHEUER: Commissioners,
15 further questions for the Office of Planning?

16 If I may ask one question, and it's not a
17 specific legal question related to Bridge or any
18 other thing.

19 From a planning perspective, why does OP,
20 if it has an opinion, believe it's important that
21 timeframes do be placed on entitlements such as
22 district boundary amendments? How does that help
23 serve the state and private interests as well?

24 MS. APUNA: I think in Bridge Aina Le'a,
25 the court they talked about when developments aren't