



April 20, 2021

Daniel E Orodenker  
Executive Officer  
State of Hawaii Land Use Commission  
Department of Business, Economic Development & Tourism  
State Office Tower  
Leiopapa A Kamehameha Building  
235 South Bertania Street Room 406  
Honolulu, HI 96813

COPY  
RECEIVED  
MAY 04 2021  
STATE OF HAWAII  
LAND USE COMMISSION

Re: Revised 2020 Annual Compliance Report for Special Use Permit – Docket No. SPI5-406, Project No. 2014/SUP-6, Kawaioloa Solar LLC

Dear Mr. Orodenker,

In response to comments from Dean Uchida, Director of Department of Planning and Permitting, sent March 21, 2021, pursuant to Condition No. 7 in the Land Use Commission Order in Docket No. SPI5-406, Project No. 2014/SUP-6, transmitted herewith is the revised 2020 annual compliance report for the Kawaioloa Solar, LLC project.

The project is in compliance with the conditions set forth in the Land Use Commission's Order, effective June 29, 2015.

Please feel free to contact me regarding any questions.

Best Regards,

A handwritten signature in blue ink that reads "Julie Babcock".

**Julie Babcock**

Sr. Environmental Manager

4900 North Scottsdale Road Suite 5000

Scottsdale AZ 85251

M: 702-400-8818

[Julie.Babcock@clearwayenergy.com](mailto:Julie.Babcock@clearwayenergy.com)

## **Annual Compliance Report In the Matter of:**

**Special Use Permit (2014SUP-6/SUP15-406)  
for a 50 Megawatt Photovoltaic Energy  
Generation Facility**



**Prepared by:**  
Kawailoa Solar, LLC  
December 2020  
Rev 1 – April 21, 2021



## Contents

Contents.....	2
1.0 Introduction .....	3
2.0 Annual Compliance Report on Conditions of Special Use Permit.....	4
2.1 SUP Condition #1 .....	4
2.1.1 Response to Condition #1 .....	4
2.2 SUP Condition #2 .....	5
2.2.1 Response to Condition #2 .....	5
2.3 SUP Condition #3 .....	5
2.3.1 Response to Condition #3 .....	5
2.4 SUP Condition #4 .....	6
2.4.1 Response to Condition #4 .....	6
2.5 SUP Condition #5 .....	6
2.5.1 Response to Condition #5 .....	6
2.6 SUP Condition #6 .....	7
2.6.1 Response to Condition #6 .....	7
2.7 SUP Condition #7 .....	7
2.7.1 Response to Condition #7 .....	7
2.8 SUP Condition #8 .....	8
2.8.1 Response to Condition #8 .....	8
2.9 SUP Condition #9 .....	8
2.9.1 Response to Condition #9 .....	8
2.10 SUP Condition #10 .....	9
2.10.1 Response to Condition #10 .....	9
2.11 SUP Condition #11 .....	9
2.11.1 Response to Condition #11 .....	9
2.12 SUP Condition #12 .....	9
2.12.1 Response to Condition #12 .....	9
2.13 SUP Condition #13 .....	10
2.13.1 Response to Condition #13 .....	10
2.14 SUP Condition #14 .....	11
2.14.1 Response to Condition #14 .....	11





## **1.0 Introduction**

This Annual Compliance Report has been prepared in compliance with the State Land Use Commission's Decision and Order, Special Use Permit, Docket No. SP15-406, approved by the Land Use Commission on August 14, 2017 (the "Special Use Permit" or "SUP"). This is the Annual Report by Kawaihoa Solar, LLC ("Permittee") which provides an update on ownership and schedule, and demonstrates the status of compliance of the Solar Energy Facilities ("SEF" or the "Project") with the conditions of the SUP. This report covers the period from January 1, 2020 through December 31, 2020.

In 2016, Permittee submitted a request for modification of the previously approved SUP to accommodate an extension of time in which to construct the Project and certain changes in equipment. This application was processed by the Department of Planning and Permitting and subsequently approved by the Honolulu Planning Commission and the Hawaii Land Use Commission on August 14, 2017.

The Project was completed and began commercial operation on November 20<sup>th</sup>, 2019. This annual report includes the updated conditions as modified by the LUC.



## 2.0 Annual Compliance Report on Conditions of Special Use Permit

### 2.1 SUP Condition #1

*Usable lands of the Petition Area, including areas under PV panels, shall be made available for compatible agricultural use at a lease rate that is at least 50 percent below the fair market rent for comparable properties, as long as the Project is in operation. Compatible agricultural operations shall be established, or Applicant shall be actively seeking to have such operations established, within six months of the start of commercial power generation. Extensions to this deadline may be granted by the Director of the DPP for unforeseen extenuating circumstances. Prior to the start of commercial power generation, the Applicant should affirm, through a separate study or other competent means, that the proposed change from fixed-tilt racks to single-axis tracking racks, and the proposed change from hog wire fencing to chain-link fencing, will not restrict or impede compatible agricultural uses within the Petition Area available for compatible agricultural uses. Also, the Applicant shall provide, in writing, a letter from Kualoa Ranch stating that the proposed amendments to the SUP will not have any adverse effect on its planned ranching operation within the Project Area.*

#### 2.1.1 Response to Condition #1

Permittee has made the area under the PV panels available for compatible agricultural use. Permittee has executed a license agreement (lease) with Kahuhipa Land Management to graze sheep on the property at less than 50% below fair market rent. Sheep pasturing is now actively established on the property, with approximately 250 sheep.

Permittee has confirmed with the rancher that all fencing and access conditions remain compatible with long term sheep ranching operations. The fencing design has not changed since the last report. **Permittee is in compliance with Condition #1**





## **2.2 SUP Condition #2**

*If at any time during the term of the SUP no compatible agricultural operations exist on the usable lands of the Petition Area for 6 months, the Applicant shall notify the Planning Commission and the Director of the DPP in writing within 30 days of the end of the 6-month period. If requested by the Commission, the Applicant shall attend a meeting of the Commission and submit a report to the Commission detailing the Applicant's actual and reasonable efforts to actively seek the establishment of compatible agricultural operations on the usable lands of the Petition Area. The Commission shall determine whether probable cause exists to re-evaluate the SUP and to hold a hearing pursuant to Section 2-49 of the Rules of the Commission. Extensions to the 6-month deadline may be granted by the Commission for unforeseen extenuating circumstances.*

### **2.2.1 Response to Condition #2**

If no agricultural activities are in place for a period of six months, Permittee will notify DPP and LUC as required in Condition #2.

## **2.3 SUP Condition #3**

*The Applicant shall submit for review and obtain the approval of the following from the Director of the DPP, prior to the issuance of a grading or building permit:*

- a. A survey map accompanied by a metes and bounds description of the approved Petition Area.*
- b. A site plan showing the area required under Condition 1, above, relating to the minimum land area to be made available for compatible agricultural use.*

### **2.3.1 Response to Condition #3**

Permittee reviewed both maps with DPP planners in 2017 and received written approval from the Director on January 18, 2018. A copy of this approval letter is in previous reports. This Condition has been satisfied.