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CITY & COUNTY OF HONOLULU

December 11, 2020

Arthur D. Challacombe, Chair
City and County of Honolulu Planning Commission

Kathy K. Sokugawa, Acting Director
City and County of Honolulu Department of Planning and Permitting

SENT VIA EMAIL

Request for Modifications to Recommendations and Findings of Fact

Regarding: Special Use Permit (SUP) Application File No. 2020/SUP-6
AES West Oahu Solar, LLC for a 12.5-Megawatt Solar Photovoltaic and 50-
Megawatt-Hour Battery Storage Facility Honouliuli, Ewa District, Oahu
Tax Map Key 9-2-002:007 (Por)

Dear Chair Challacombe and Acting Director Sokugawa,

On behalf of the applicant, AES West Oahu Solar, LLC, I am writing to request certain modifications to Recommendations and Findings of Fact included in the recently filed Director’s Report dated December 2, 2020 for the West Oahu Solar and Storage Project - Special Use Permit (SUP) Application File No. 2020/SUP-6 as follow:

- 1) Requested Modification to Recommendation No. 3 – Extending SUP duration from 25 to 29 years
- 2) Requested Modification to Findings of Fact – Recognizing State Historic Preservation Division’s Verbal Commitment to Issue an Effect Determination and Status of AIS Review
- 3) Requested NEW Recommendation – Condition of Approval for 6E and AIS

Below is an explanation and justification for the requested modifications.

1) Requested Modification to Recommendation No. 3 – Extending SUP duration from 25 to 29 years

Recommendation No. 3 states:



The SUP shall be valid for a period of 25 years from the date of the State Land Use (SLU) Commission's Decision and Order approving the SUP, subject to further extensions upon a timely request for extension filed with the PC at least 120 days prior to the SUP's expiration.

AES West Oahu Solar, LLC, respectfully requests modification to Recommendation No. 3 to include the period for the Project's predevelopment, permitting and approvals, construction, operations, and decommissioning. It is critical that the duration of the SUP permit adequately cover the time necessary for predevelopment, operation, and decommissioning in order for the applicant to secure the financing necessary for the Project. This is particularly important given financing must be secured prior to construction to enable the Project to proceed.

Should the Planning Commission and subsequently the State Land Use Commission approve the Special Use Permit application, the Project will still need to seek a Conditional Use Permit (Minor), grading permit, and building permit from the City and County of Honolulu. In addition, easement(s) applications will need to be submitted to the City and recorded in Land Court. Construction will only commence after all governmental approvals are secured. The estimated duration for permitting, approvals and construction is approximately two (2) - three (3) years from the State Land Use Commission Decision & Order.

Once the Project is built and commissioned, the term of the Power Purchase Agreement (PPA) with Hawaiian Electric is twenty-five (25) years. The Project may then either be repowered (subject to an extension of the term), or decommissioned. The decommissioning process to return the land to pre-existing conditions is expected to take approximately one (1) year after the end of the operational term.

As a result of these factors, the Applicant, AES West Oahu Solar, LLC respectfully requests an extension to the duration of the SUP and a modification of Recommendation No. 3 to read:

The SUP shall be valid for a period of ~~25~~ [29] years from the date of the State Land Use (SLU) Commission's Decision and Order approving the SUP, subject to further extensions upon a timely request for extension filed with the PC at least 120 days prior to the SUP's expiration.



2) Requested Modification to Findings of Fact – Recognizing State Historic Preservation Division’s (SHPD) Commitment to Issue an Effect Determination and Status of AIS Review

To date, the DPP, Applicant and landowner have not received SHPD’s comments on the draft Archaeological Inventory Survey (AIS) Report filed on February 5, 2020 (SHPD LOG No. 2020.00290).

On December 10, 2020, representatives of the Applicant, landowner and archaeologist met with SHPD via Zoom. At the meeting, SHPD indicated a willingness to agree in writing with the determination of “Effect with Agreed Upon Mitigation Commitments” following a follow-up meeting to determine the appropriate mitigation and affected feature(s). The archaeologist provided a written summary of the meeting and next steps via email, a copy of which is included here (attached). The Applicant and the Office of Planning (OP) recognize the delay in receiving reviews and approvals from SHPD due to SHPD’s workload. In its letter dated November 5, 2020, the OP acknowledged the effort the Applicant has made to satisfy this requirement.

The verbal agreement and email correspondence regarding an effect determination and mitigation are vital to demonstrating the Applicant and SHPD’s efforts to satisfy and complete a review and acceptance of the AIS.

The Applicant respectfully requests that the Findings of Fact in the final adopted Planning Commission Decision and Order for the Project SUP include the finding that:

Applicant and SHPD have agreed with the determination of Effect with Agreed Upon Mitigation Commitments, subject to determination of appropriate mitigation and affected feature(s).

3) Requested NEW Recommendation – Condition of Approval for 6E and AIS

Should the SHPD not provide approval of the AIS or concurrence with the effect or appropriate mitigation prior to the Planning Commission hearing, the Applicant respectfully requests a new recommendation for condition of approval to state:

SHPD approval of the AIS, effect and/or recommended mitigation measures shall be obtained prior to the issuance of a grading or building permit by the DPP.



Thank you for your consideration.

Regards,

A handwritten signature in black ink, appearing to be "NM", followed by a horizontal line.

Nick Molinari

Project Development Manager / Authorized Representative

AES West Oahu Solar, LLC

Tel: 1 303 524 4368

nick.molinari@aes.com

Cc: Gloria Takara, Planning Commission
Planning Commissioners – City & County of Honolulu
Dina Wong, Department of Planning and Permitting
Raymond Young, Department of Planning and Permitting

From: [David Shideler](#)
To: [Nick Molinari](#); [Jan Gouveia](#); [Kettley, Lisa](#)
Subject: FW: Request to set up a meeting to discuss mitigation for the AES West O'ahu Solar Project, Honouliuli Ahupua'a, 'Ewa District, O'ahu, TMK: [1] 9-2-002:007 (por.)
Date: Wednesday, December 9, 2020 3:46:18 PM

USE CAUTION: External Sender

Aloha AES Solar Team:

Just FYI on my outreach to SHPD.

Aloha.

David Shideler
Cultural Surveys Hawai'i
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Kailua, HI 96734
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dshideler@culturalsurveys.com

From: David Shideler
Sent: Wednesday, December 9, 2020 1:45 PM
To: Hemenway, Samantha <samantha.hemenway@hawaii.gov>; Gumapac-McGuire, Tanya H <Tanya.Gumapac-McGuire@hawaii.gov>; 'Susan.A.Lebo@hawaii.gov' <Susan.A.Lebo@hawaii.gov>
Cc: Lauren Murai <lmurai@hawaii.edu>; alan.s.downer@hawaii.gov
Subject: Request to set up a meeting to discuss mitigation for the AES West O'ahu Solar Project, Honouliuli Ahupua'a, 'Ewa District, O'ahu, TMK: [1] 9-2-002:007 (por.)

Aloha Sam, Tanya and Susan:

I am following up on Dr. Lebo's recommendation (of a few minutes ago) to set up a virtual meeting regarding our:

- *Draft Archaeological Inventory Survey Report for the AES West O'ahu Solar Project, Honouliuli Ahupua'a, 'Ewa District, O'ahu, TMK: [1] 9-2-002:007 (por.) (Welser et al. 2020) (CSH job HONOULIULI 171)*

(Link supplied below)

<https://culturalsurveys.sharepoint.com/:b:/g/EXyFGboxtchNhVjwLqwrU7EB7riuVYZJ-PMvZ7KIEW-NEQ>

received by SHPD and assigned TO ARCHEOLOGY WITH LOG 2020.00290 on Feb 6, 2020.

My understanding is we are now agreeing to "Effect with Agreed Upon mitigation

Commitments” (pursuant to HAR 13-284-7) needing only to determine appropriate mitigation – understood as likely to include preservation of SIHP # 50-80-08-5593 Feature 2A, and possibly architectural recordation and/or historical data recovery (incorporation in a context study) of a portion of the Waiahole Ditch.

I am available any day, any time. It would be great if we could meet soon.

Please advise regarding preferred meeting day and time.

Aloha.

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