

**OFFICE OF PLANNING AND  
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**BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII**

In the Matter of the Petition of	)	DOCKET NO. A87-610
	)	
TOM GENTRY AND GENTRY-PACIFIC,	)	OFFICE OF PLANNING AND
LTD.	)	SUSTAINABLE DEVELOPMENT'S
	)	RESPONSE TO TRUSTEES OF THE
	)	ESTATE OF BERNICE PAUAHI
To Amend the Agricultural Land Use	)	BISHOP, DBA KAMEHAMEHA
District Boundary into the Urban Land Use	)	SCHOOLS, MOTION FOR
District of Approximately 1,395 Acres of	)	MODIFICATION AND TIME
Land at Waiawa, Ewa, Island of Oahu,	)	EXTENSION AND RELEASE AND
Hawaii, Tax Map Key Nos: (1) 9-4-006:	)	MODIFICATION OF CONDITIONS;
por. of 026; 9-6-004: por. of 001 and 016;	)	EXHIBITS 1, 2 AND 3, AND
and 9-6-005: por. of 007 and 014	)	CERTIFICATE OF SERVICE
	)	

**OFFICE OF PLANNING AND SUSTAINABLE DEVELOPMENT'S RESPONSE TO  
TRUSTEES OF THE ESTATE OF BERNICE PAUAHI BISHOP, DBA KAMEHAMEHA  
SCHOOLS, MOTION FOR MODIFICATION AND TIME EXTENSION, AND RELEASE  
AND MODIFICATION OF CONDITIONS**

The Office of Planning and Sustainable Development ("OPSD") recommends approval of successor Petitioner Kamehameha Schools' ("Petitioner" or "KS") Motion for Modification and Time Extension, and Release and Modification of Conditions ("Motion"), except for the proposed deletion of Condition 1, with modifications to the proposed Conditions 3 and 10, and with the addition of a condition to protect wildlife in conformance with the Petitioner's biological survey.

The Motion requests that the Land Use Commission ("LUC"): issue an order modifying the Commission's November 26, 2014 ("2014 Order"), Order Granting Motion for

Order Amending Findings of Fact, Conclusions of Law and Decision and Order dated May 17, 1988, as modified by Findings of Fact, Conclusions of Law, and Decision and Order Granting With Modification Motion for Modification and Time Extension, issued by the LUC on February 11, 2020 (“2020 Order”) to allow for modifications to the solar farm and the timeframe for the development of the Phase 2 solar farm, to allow modifications to the Phase I solar farm which was authorized under the 2014 Order. Petitioner is also requesting modification of the timeframe and to release and modify various other conditions imposed under the 2014 Order.

In brief, OPSD recommends that Condition 1 relating to the Master Plan not be deleted per se and that Petitioner instead be required to provide a revised Master Plan and schedule for the entire 1,395-acre property (not just Phase 2) by February 11, 2025 in order to encourage the development of the residential dwellings that has been delayed for so many years. OPSD also recommends that the proposed Condition 3 be modified to require Petitioner to implement the Preservation Plan approved by the State Historic Preservation Division. OPSD recommends that the proposed Condition 10 be modified to require Petitioner to comply with all laws and rules in effect at the time of the decommissioning to recognize that DOH now has specific rules dealing with solar panels, and to delete the restriction of the requirement for an AIS only if required by SHPD. Finally, OPSD recommends that a new condition be imposed requiring compliance with the mitigation measures recommended by Petitioner’s biological survey report in order to ensure protection of Hawaiian wildlife, including the endangered Hawaiian hoary bat, the Hawaiian short-eared owl, and the endangered and threatened Hawaiian water bird and shorebird species. With these changes, OPSD recommends the approval of the Motion.

Petitioner proposes to develop the Phase I site in two segments, Parcels A and B. For Parcel A, Petitioner requests approval to have the solar farm decommissioned no later than December 31, 2044, and for Parcel B, approval to have the solar farm decommissioned no later than December 31, 2054. Petitioner is proposing to construct a 30 MW alternating current/60 MW direct current solar farm with battery energy storage units.

OPSD distributed the Motion to the following agencies for their review and comments: Department of Land and Natural Resources (“DLNR”), including the Commission on Water

Resource Management (“CWRM”), State Historic Preservation Division (“SHPD”), Department of Transportation (“DOT”), and the Hawaii State Energy Office (“HSEO”). SHPD and CWRM did not respond to requests for comments. OPSD’s response is based on the representations and documents filed by the Petitioner, including comments received by various State agencies on potential impacts to their facilities, programs, statutes and regulations applicable to these proceedings.

### **PROPOSED MODIFICATIONS TO 2014 ORDER**

#### **Proposal**

According to the current Motion, the developer of the Phase I project will be Waiawa Phase 2 Solar, LLC (“WP2S”), a wholly-owned indirect subsidiary of The AES Corporation (“AES”). The Hawaii Public Utilities Commission (“PUC”) approved WP2S’s power purchase agreement (“PPA”) with Hawaiian Electric Company, Inc. (“HECO”) in December 2020. The PPA has a term of 20 years commencing with the operational date of October 30, 2023.

Petitioner is requesting LUC approval for Parcel A to allow for decommissioning of the solar farm no later than December 31, 2044. According to the Motion, this would allow for 20 years of operation, if it commences October 30, 2023, and about one year for decommissioning. Provided this timeframe is followed, OPSD notes that the proposed 2044 LUC time limit would not allow Petitioner any time for delays in either construction or decommissioning.

The proposed project will be situated on about a 387-acre area within the previously approved Phase 1. The project will be comprised of PV panels, substation, pad-mounted inverter stations, overhead generation tie-line (gen-tie line), access roads, battery energy storage systems, and 7-foot high perimeter fencing. The solar farm project on Parcel A will be established on approximately 151 acres, and Parcel B will be comprised of about 236 acres. The proposed project’s substation will be located near HECO’s existing Waiau-Mililani and Wahiawa-Waimano 46 kV sub-transmission lines along the western boundary of the Petition Area.

The proposed construction will take about 15-18 months. Once completed, the solar farm will require approximately four full time employees.



## **DISCUSSION AND ISSUES OF STATE CONCERN**

### **Background**

The Waiawa development as originally proposed by Gentry Pacific consists of a mix of 7,906 residential dwellings, parks, open space, two golf courses, commercial and light industrial uses. On May 17, 1988, the Commission approved the reclassification of the 1,395 acres from the State Agricultural District into the Urban District. The site was subsequently rezoned by the City and County of Honolulu in 1998 and 2003 for the master-planned community uses. In 2006, the Waiawa Ridge Development, LLC was formed as a joint venture of Gentry and A&B Waiawa. Petitioner indicated that construction was set to begin in 2009 when the financial collapse of 2008 occurred, after which control of the Petition Area was returned to KS. According to the Petitioner, the property has been vacant and without agricultural activities since 1983.

### **2014 Order Proposed Change in Use**

The Petitioner entered into an agreement with Sun Edison to develop a utility-scale solar energy facility for an interim period of up to 35 years with an operation that will carry out KS' educational mission and Strategic Agricultural Plan. The proposed solar farm was to be developed in two phases in separate areas. The initial Phase I was proposed for the production of 50 megawatts ("MW") of power on approximately 300 acres on the northwest side of the property near the Interstate H-2 Freeway. Phase II was proposed for a production of up to 65 MW of power within approximately 277 acres on the southeastern portion of the property. The operation also included a 46kv project substation and battery storage facility located close to the western side of the KS Property about 1,000 feet from the H-2 Freeway. On November 26, 2014, the LUC approved the proposed solar farm with 16 conditions of approval to be in operation, including time for permitting, construction and decommissioning, for a 35-year period.

### **Revised Master Plan and Petitioner's Motion for Modification and Time Extension for Phase 2 Solar Farm Findings of Fact, Conclusions of Law and Decision and Order dated February 11, 2020 ("2020 Order").**

On October 7, 2019, Petitioner submitted a revised Master Plan for their Waiawa lands comprised of approximately 2,010 acres, which includes the 1,395-acre Petition Area. The



Petitioner indicated that they plan to submit future LUC District Boundary Amendments and relevant rezoning amendments as needed for this revised Master Plan.

The revised Master Plan proposes about 11,109 homes and 51 agricultural farm lots within five (5) phases. An additional 476 acres is proposed for Urban reclassification and about 139 acres will remain within the State Agricultural District. Petitioner provided a conceptual description of the Master Plan components. Increment Phase A, is situated closest, about one mile from the proposed Pearl Highlands rail station. This 410-acre increment will be comprised of 2,024 residential units at a density of 24 units per acre, mixed-use and neighborhood commercial, DOE elementary school, park and open space. The Petitioner anticipates further refinements to the master plan including the preparation of a Supplemental Environmental Impact Statement to address Hawaii Revised Statutes (“HRS”) Chapter 343 requirements.

The 2020 Order approved Petitioner’s Motion with additional conditions that replaced the 2014 D&O conditions.

**Comparison of Conditions of Approval with the 2014 Order, 2020 Order, and the Petitioner’s Proposal**

The 2014 Order included 16 conditions of approval. The 2020 Order included 18 conditions of approval, which replaced all other conditions imposed on the Phase 2 solar farm in the 2014 Order. For the Phase 1 solar farm the relevant conditions are summarized below, including OPSD’s comments on Petitioner’s proposal.

**Condition 1:** Revised Master Plan.

Petitioner proposes to delete this condition in its entirety. Condition 1 required that the Petitioner submit a revised Master Plan and development schedule for the entire 1,395-acre property. The Petitioner submitted a Master Plan on October 7, 2019.

2020 Order: Retains this condition for the Phase 2 solar project with a modification that a plan be submitted within 5 years from the date of the Order.

OPSD Recommendation: Although Petitioner is requesting release of this condition, OPSD feels the 2020 condition is still relevant to allow an update and review of the Revised Master Plan. Accordingly, OPSD recommends keeping

Condition 1 and clarifying that the revised Master Plan should include the entire 1,395-acre parcel, as follows.

“Petitioner shall submit to the Commission a revised master plan and schedule for development for the approximately 1,395-acre Petition Area by February 11, 2025.”

Condition 2: Access to the Waiawa Correctional Facility. Required that the solar farm operator ensure access to the Waiawa Correctional Facility during construction and installation.

Petitioner is not proposing any changes to this condition.

Condition 3: Previously Unidentified Burials and Archaeological/Historic Sites. Required that a supplemental AIS for the entire 1,395-acre Petition Area be prepared by a qualified archaeologist, and reviewed and approved by the SHPD prior to the start of construction. Petitioner is proposing to modify this condition by deleting the first paragraph regarding an AIS, and retain the second paragraph regarding inadvertent finds.

2020 Order: The Order retained the original 2014 condition in its entirety.

OPSD Recommendation: Page 9 of the current Petitioner’s Memorandum in Support of the Motion states that SHPD accepted the AIS by letter dated April 24, 2015). As indicated in Petitioner’s Exhibit 9, a letter dated September 14, 2015 from SHPD approved an Archaeological Preservation Plan for Site No. 50-80-09-2273, Features 14 (portion), 19, 22, and 23 (portion), Kamehameha Schools’ Land Waiawa Ahupuaa, Ewa District, Island of Oahu. Petitioner has indicated that two sites (14 and 19) are in close proximity to the Phase 1 solar farm site. We recommend that the condition be modified to include the implementation of the Preservation Plan as approved by SHPD, as follows.

“Petitioner shall implement the Preservation Plan approved by SHPD by letter dated September 14, 2015, prior to construction of the Phase 1 solar farm.

In the event that historic resources, including human skeletal remains, are identified during construction activities, all work shall cease in the immediate vicinity of the find, the find shall be protected from additional disturbance, and the SHPD, ~~Oahu Island~~ ~~Section~~ shall be contacted immediately. Without any limitation to any other condition found herein, if any burials or archaeological or historic sites, such as artifacts, marine shell concentrations, charcoal deposits, stone platforms, paving, and walls not previously identified in studies referred to herein, are discovered during the course of construction of the solar farm project, all construction activity in the vicinity of the discovery shall stop until the issuance of an archaeological clearance from the SHPD that mitigative measures have been implemented to its satisfaction.”

Condition 4: Aircraft Hazard. Required that if glint or glare from the photovoltaic array creates a hazard for pilots, Petitioner shall cause the solar farm operator to mitigate the hazard upon notification from the Department of Transportation (DOT) or Federal Aviation Administration (FAA).

2020 Order: The LUC approved a modification to this condition. Petitioner recommends modifying this condition with the same modifications for Phase 1.

OPSD Recommendation: No objections. By letter dated January 20, 2022, the Department of Transportation (“DOT”) does not have any concerns with the proposed modification to this condition. See OPSD Exhibit 1.

Condition 5: Traffic Impacts. Petitioner proposes to modify the condition to the 2020 Order regarding traffic impacts for a traffic construction management plan.

OPSD Recommendation: No objection. The DOT has no concerns regarding the proposed condition. See OPSD Exhibit 1.



Condition 6: Development Schedule. Phase I of the solar farm shall be substantially completed within five (5) years from the date of the Commission's issuance of an order approving the Motion to Amend. Phase 2 of the solar farm shall be substantially completed within ten (10) years from the date of the Commission's issuance of an Order approving the Motion to Amend.

Petitioner proposes to replace this condition with the 2020 Order wording.

2020 Order: The solar farm shall be substantially completed within five (5) years from the date of the Commission's issuance of this Decision and Order.

OPSD Recommendation: No objection to the proposed modification.

Condition 7: Interim Use of the Petition Area. Requires the interim use of the Petition Area to be limited to a utility-scale solar farm. Petitioner proposes to modify the condition similar to the 2020 Order for Phase 2 for Phase 1's 387-acre area.

2020 Order: The interim use of the approximately 200-acre portion of the Petition Area as shown in Petitioner's Revised Master Plan and Schedule for Development filed on October 7, 2019, shall be limited to a utility-scale solar energy development, or solar farm. No other use shall be permitted without the prior written approval of the Commission.

OPSD Recommendation: No objection to the proposed modification.

Condition 8: Timeframe of Interim Use. Requires that the timeframe for the solar farm shall not exceed 35 years from the date of this Decision and Order. The current Motion addresses this condition to reflect the updated Phase 1 solar project and timelines.

Proposed condition:

“The interim use of Parcel A for the proposed solar farm, including any and all permitting, construction, operation, and decommissioning activities associated with the solar farm, shall not exceed December 31, 2044, without the prior written approval of the Commission. The interim use of Parcel B for the proposed solar farm, including any and all permitting, construction,

operation, and decommission activities associated with the solar farm, shall not exceed December 31, 2054, without the prior written approval of the Commission; provided, however, that in the event the solar farm project owner fails to secure a PUC-approved extension to the PPA, or a new PPA within 12 months after the expiration of the current PPA, the project owner will immediately commence with the decommissioning of the solar farm on Parcel B and complete decommissioning within two years after the expiration of the current PPA.”

2020 Order: This condition was updated by the LUC to reflect the Phase 2 solar farm project.

OPSD Recommendation: No objection to the proposed modification of the condition.

Condition 9: Metes and Bounds Map and Description. Requires the Petitioner to provide a metes and bounds map. According to the current Motion this was satisfied on October 15, 2015. Petitioner proposes to delete this condition because Phase 1 is within the map submitted by Petitioner.

2020 Order: We note that the LUC imposed a different Condition 9 in this Order, and the 2020 Order has this condition as Condition 10, relating to the Phase 2 solar farm.

OPSD Recommendation: No objection to the proposed deletion of this condition.

Condition 10: Decommissioning of the Solar Farm. Requires decommissioning of the solar farm. Petitioner is proposing a modification to this condition to update it for the Phase 1 solar farm proposed project.

Proposed condition:

~~“The solar farm shall be decommissioned following its~~ Both  
portions of the solar farm (Parcel A and Parcel B) shall be  
decommissioned following their respective operational timeframes.

The decommissioning activities shall include, but not be limited to, the complete removal of the foundational piers and modules and all associated components. All metal components shall be recycled to the extent possible and no solar farm components shall be disposed of in any landfill in the State of Hawaii.

Any future use of the Petition Area, including future uses of the solar farm sites following the decommissioning of the solar farms, shall be subject to the environmental review process promulgated under HRS chapter 343, as applicable. Provided that if the HRS chapter 343 environmental review process is completed for the entire Petition Area, no separate or additional environmental review shall be required under this condition following the decommissioning of the solar farm.

Any future use of the Petition Area, including future uses of the solar farm sites following the decommissioning of the solar farms, ~~and~~ shall require the filing of a motion to amend the Decision and Order with the Commission. Such motion to amend shall include a revised master development plan of the proposed use and shall further include, but not be limited to, a revised Traffic Impact Analysis Report, engineering Report, Socio-economic Analysis Reports, Environmental Report, and AIS (if required by SHPD).”

2020 Order: Same as the 2014 condition.

OPSD Recommendation: The Hawaii State Energy Office (“HSEO”) commented via letter dated January 24, 2022, page 3, that the proposed modification to the condition: “...All metal components shall be recycled to the extent possible and no solar farm components shall be disposed of in any landfill in the State of Hawaii.” should be revised to reflect that the Department of Health (“DOH”) has amended Hawaii Administrative Rules Chapter 11-273.6.2 to add solar panels as a category of universal waste, and establishes standards for handling hazardous waste solar panels under the universal waste program, which also maintains and



provides for the protection of human health and the environment. Thus, HSEO recommends that solar farm operator should consult DOH and other appropriate agencies as needed for the decommissioning of the solar farms. See OPSD Exhibit 2.

Also, OPSD recommends that the last proposed addition, “if required by SHPD” be deleted from the proposed condition.

OPSD Proposed modification to Petitioner’s proposed condition:

~~“The solar farm shall be decommissioned following its~~ Both  
portions of the solar farm (Parcel A and Parcel B) shall be  
decommissioned following their respective operational timeframes.  
The decommissioning activities shall include, but not be limited to,  
the complete removal of the foundational piers and modules and all  
associated components. ~~All metal components shall be recycled to~~  
~~the extent possible~~ The decommissioning shall be in accordance  
with all laws and rules in effect at the time, potentially including  
the Department of Health Hawaii Administrative Rules Chapter  
11-273.6.2. ~~and no solar farm components shall be disposed of in~~  
~~any landfill in the State of Hawaii.~~

Any future use of the Petition Area, including future uses of the  
solar farm sites following the decommissioning of the solar farms,  
shall be subject to the environmental review process promulgated  
under HRS chapter 343, as applicable. Provided that if the HRS  
chapter 343 environmental review process is completed for the  
entire Petition Area, no separate or additional environmental  
review shall be required under this condition following the  
decommissioning of the solar farm.

Any future use of the Petition Area, including future uses of the  
solar farm sites following the decommissioning of the solar farms,  
~~and~~ shall require the filing of a motion to amend the Decision and  
Order with the Commission. Such motion to amend shall include a

revised master development plan of the proposed use and shall further include, but not be limited to, a revised Traffic Impact Analysis Report, engineering Report, Socio-economic Analysis Reports, Environmental Report, and AIS (if required by SHPD).”

Condition 11: Compliance with Representations. Requires substantial compliance with representations made to the Commission. The current Motion requests a modification to reflect only the Phase 1 proposed project.

Proposed condition:

Petitioner shall cause the solar farm operator to develop and operate the 2021 Phase 1 Project ~~Phase 1 and Phase 2 of the solar farm~~, including the implementation of measures to mitigate potential impacts of the development, in substantial compliance with the representations made to the Commission as reflected in this Decision and Order. Such mitigation measures include, but are not limited to, the use of temporary and permanent BMP’s to ensure that the development and operation of the solar farm do not result in an increase in stormwater runoff that adversely impacts downstream properties. Failure to do so may result in reversion of the Petition Area to its former classification, or change to a more appropriate classification.

2020 Order: The LUC revised this condition to reflect the Phase 2 solar farm project.

OPSD Recommendation. No objection to the proposed modification.

Conditions 12-16: LUC standard conditions.

### **Conditions of Approval Relevant to the Original D&O**

The Decision and Order of 1988 included ten (10) conditions of approval, with relevancy to the proposed use summarized and discussed here:

Condition 1: Required a study of potential groundwater contamination prompted by concerns of the U.S. Navy and the DOH. The study was completed which delineated a ZOC

within which the Navy strongly recommended that no development be permitted. Phase 2 of the proposed solar farm is within the ZOC. Phase 1 is not within the ZOC.

- Condition 2: Required that any urban development within the Property be reviewed and approved by the DOH and be subject to mitigative measures.
- Condition 3: Required affordable housing in conjunction with residential development – not applicable to the proposed use.
- Condition 4: Required affordable housing subject to approval of County and State housing agencies – not applicable to the proposed use.
- Condition 5: Required mitigation of transportation impacts as determined by the DOT.
- Condition 6: Required a transportation manager to maximize transportation alternatives – not applicable to the proposed use.
- Condition 7: Required an air quality monitoring program – not applicable to the proposed use.
- Condition 8: Required stoppage of work upon discovery of archaeological resources during construction.
- Condition 9: Required public access to the Conservation District mauka of the property.
- Condition 10: Required the submittal of annual reports. Annual reports have been continually submitted by Gentry Pacific and successor Petitioner Kamehameha Schools.

The 1988 conditions in the Original D&O remain relevant and applicable.

**Revised Master Plan Submitted October 7, 2019 and Petitioner’s Motion for Modification and (“2020 Order”).**

Pursuant to the 2014 Order, the Petitioner submitted a revised Master Plan for their Waiawa lands comprised of approximately 2,010 acres, which includes the 1,395-acre Petition Area in October 7, 2019. The Petitioner indicates that they plan to submit future Land Use Commission District Boundary Amendments and relevant rezoning amendments as needed to realize this Master Plan.

The Waiawa Master plan proposes about 11,109 homes and 51 agricultural farm lots within five (5) phases. An additional 476 acres is proposed for Urban reclassification and about



139 acres will remain within the State Agricultural District. Petitioner provides a conceptual description of the Master Plan components. Increment Phase A, is situated closest, about one mile from the proposed Pearl Highlands rail station. This 410-acre increment will be comprised of 2,024 residential units at a density of 24 units per acre, mixed-use and neighborhood commercial, DOE elementary school, park and open space. The Petitioner anticipates further refinements to the master plan including the preparation of a Supplemental Environmental Impact Statement to address Chapter 343, Hawaii Revised Statutes, requirements.

The 2020 Order approved Petitioner's Motion with a new Condition 9 relating to the implementation of the Master Plan.

Condition 9: Waiawa Master Plan Infrastructure Deadline. Petitioner shall complete construction of the backbone infrastructure for the proposed Waiawa Master Plan Phase A, consisting of the primary roadways and access points, internal roadways, on-and off-site water and electrical system improvements, and stormwater/drainage and other utility system improvements, by December 31, 2030.

OPSD assumes that the 2020 Order regarding Condition 9 also applies to the Phase 1 project.

#### **Consistency with Urban District Standards and State and County Plans**

The proposed use to modify the Phase 1 solar farm development is reasonable and is consistent with the Urban District classification and Commission rules for Urban District standards and permissible uses under Hawaii Administrative Rules §§ 15-15-18 and 15-15-24. Unlike other proposals for utility-scale solar energy facilities in the Agricultural District, this use is fully permissible in the Urban District. Solar energy production is a clean renewable energy resource strongly supported by the State to promote energy self-sufficiency and reduce our reliance on imported fossil fuels.

#### **Key Issues of Concern to the State**

The following summarizes the concerns identified by various State agencies and includes recommendations for proposed conditions to mitigate potential impacts from the proposed Project.

### **Historical or Archaeological Assessment**

According to the Motion, an Archaeological Inventory Survey of the entire Petition Area was conducted in March 2015, and submitted for review and approval to the State Historic Preservation Division (SHPD). Petitioner's Exhibit 9 indicates that SHPD accepted the survey. The Petitioner's consultant also prepared and submitted an Archaeological Preservation Plan to SHPD. Petitioner's Exhibit 8 indicates that SHPD accepted the preservation plan by letter dated September 14, 2015.

**Mitigation recommendation:** SHPD accepted Petitioner's preservation plan. Petitioner should follow the plan recommendations.

### **Flora and Fauna**

The current Motion indicates that a survey report, *Biological Resources Survey Report*, dated August 2021 was prepared and included as Petitioner's Exhibit 10. The consultant's survey of the Phase 1 area included several mitigation measures to avoid and minimize any potential impacts to the Petition Area. Page 34 to 35 of the Motion, and pages 20 to 22 of Petitioner's Exhibit 10 listed specific mitigation measures for plants, wildlife, the Hawaiian hoary bat, pueo, seabirds, and listed waterbirds. The Motion notes that the Department of Land and Natural Resources, Division of Forestry and Wildlife ("DOFAW") was also consulted.

DOFAW commented by letter dated January 26, 2022, that they concur with the mitigation measures in the Draft EA to avoid construction and operational impacts to State listed Hawaiian Hoary Bat, Hawaiian short-eared owl, and listed seabirds and waterbirds, and have no additional concerns. See OPSD Exhibit 3.

**Mitigation recommendation:** OPSD recommends a new condition relating to the protection of State listed wildlife, and as recommended by the biological survey report in Petitioner's Motion.

## **CONCLUSION AND RECOMMENDATIONS**

OPSD recommends approval of the proposed modifications to the development time schedule for the proposed Phase 1 solar farm, subject to the OPSD recommendations and condition modifications listed above, and following additional new condition:

Proposed condition:

The Petitioner and Phase 1 operator shall implement the following measures regarding landscaping vegetation and the protection of endangered Hawaiian hoary bat, Hawaiian short-eared owl, and endangered and threatened Hawaiian water bird and shorebird species at the Phase 1 solar farm area:

- a. If landscaping is installed as part of the solar farm project, non-invasive plants and native plant species shall be utilized to the maximum extent practicable.
- b. Invasive species minimization measures shall be implemented to avoid the unintentional introduction or transport of new invasive species to the area. This would include utilizing on-site gravel, rock, and soil (or purchasing from a local supplier) when practicable, utilizing certified, weed-free seed mixes; and washing construction equipment and/or visually inspecting for excessive debris, plant materials, and invasive or harmful non-native species.
- c. To minimize the spread of the fungal pathogen responsible for Rapid Ohia Death (CTAHR 2020), the most recent Rapid Ohia Death decontamination protocols recommended by USFWS and DOFAW shall be implemented.
- d. No trees or shrubs greater than 15 feet tall shall be disturbed, trimmed or removed during the Hawaiian hoary bat birthing and pupping season (June 1 through September 15).
- e. Any fences that are erected as part of the Project shall not have barbed wire to prevent entanglements of the Hawaiian hoary bat.
- f. A wildlife education and observation program (WEOP) shall be implemented for all construction and regular on-site staff. Staff shall be trained to identify listed species that may be found on-site (including Hawaiian hoary bat, pueo, Hawaiian seabirds and waterbirds) and to take appropriate steps if these species are observed. If a federally or state-listed species is observed to be impacted by the project, the United States Fish and Wildlife Service ("USFWS") and the Department of Land and Natural Resources, Division of Forestry and Wildlife ("DOFAW") shall be notified, and a systematic post-construction monitoring program shall be developed and implemented.
- g. Construction activities shall be restricted to daylight hours as much as possible during the seabird peak fallout period (September 15–December 15) to avoid the use of nighttime lighting that could attract seabirds.
- h. Speed limits shall be established and enforced within the Project area and along the access road.
- i. Should nighttime construction be required during the seabird peak fallout period, a biological monitor shall be present in the construction area from approximately 0.5-hour before sunset to 0.5-hour after sunrise to watch for the presence of seabirds. Should a seabird (or other listed species) be observed and appear to be affected by the lighting, the monitor shall notify the construction manager to reduce or turn off construction lighting until the individual(s) move out of the area.
- j. Any on-site lighting shall be fully shielded, triggered by motion detector, and fitted with light bulbs having a correlated color temperature of four thousand Kelvin or less, to the extent possible. Lighting shall also be directed away from the solar



arrays to minimize the potential for reflection and shall only be used when necessary.

- k. Construction of overhead lines shall be minimized to reduce the collision risk for seabird species.
- l. Prior to clearing vegetation within the project area, pre-construction pueo surveys shall be conducted by a qualified biologist following the Pueo Project survey protocol.
- m. If a pueo is observed in the project area at any time (prior to construction, during construction, or during operation), all activities in the immediate area shall stop immediately. The location of the bird should be reported to a designated representative, and a qualified biologist should check the area for the presence of a pueo nest. If a ground nest or a pueo nesting on the ground is observed at any time (prior to construction, during construction, or during operation), an approximately 100-foot buffer shall be established and marked in the field by a qualified biologist. DOFAW should be contacted immediately. If the nest is confirmed as a pueo nest, no work should occur in the buffer area until pueo nesting is complete. No vegetation clearing shall occur until pueo nesting ceases.
- n. No rodent baiting shall occur as part of the Project to prevent secondary poisoning from toxins in pueo prey.

Based on the foregoing information and analysis, OPSD recommends approval of the motion for modification and time extension, and release and modification of conditions, subject to the revisions to the conditions and new condition recommended above.

DATED: Honolulu, Hawaii, this February 8, 2022.

OFFICE OF PLANNING AND SUSTAINABLE  
DEVELOPMENT  
STATE OF HAWAII

*Mary Alice Evans*

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MARY ALICE EVANS  
Director

**OFFICE OF PLANNING AND  
SUSTAINABLE DEVELOPMENT**

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served upon the following by either hand delivery or depositing the same in the U.S. Postal Service by regular mail.

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DANA M.O. VIOLA, ESQ.  
Corporation Counsel  
DUANE PANG, ESQ.  
Deputy Corporation Counsel  
Department of the Corporation Counsel  
530 South King Street, Room 110  
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, February 8, 2022.

OFFICE OF PLANNING AND  
SUSTAINABLE DEVELOPMENT  
STATE OF HAWAII

*Mary Alice Evans*

---

MARY ALICE EVANS  
DIRECTOR

DAVID Y. IGE  
GOVERNOR



STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

JADE T. BUTAY  
DIRECTOR

Deputy Directors  
ROSS M. HIGASHI  
EDUARDO P. MANGLALLAN  
PATRICK H. MCCAIN  
EDWIN H. SNIFFEN

IN REPLY REFER TO:  
DIR 1190  
STP 8.3339


January 20, 2022

VIA EMAIL: dbedt.op.lud@hawaii.gov

TO: MARY ALICE EVANS  
DIRECTOR  
OFFICE OF PLANNING AND SUSTAINABLE DEVELOPMENT (OPSD)

THRU: RODNEY FUNAKOSHI  
PLANNING PROGRAM ADMINISTRATOR  
OPSD, LAND USE DIVISION

ATTN: LORENE MAKI  
PLANNER  
OPSD, LAND USE DIVISION

FROM: JADE T. BUTAY   
DIRECTOR OF TRANSPORTATION

SUBJECT: MOTION FOR MODIFICATION, TIME EXTENSION, AND RELEASE AND  
MODIFICATION OF CONDITIONS  
LAND USE COMMISSION (LUC) DOCKET NO. A87-610  
WAIAWA PHASE 2 SOLAR, LLC  
WAIAWA, OAHU, HAWAII  
TAX MAP KEYS: (1) 9-4-006: 034, 035, 036, 037 (POR.); 9-6-004: 024 (POR.),  
025, 026

Thank you for your letter dated December 17, 2021 requesting the review and comments for the Motion for LUC Docket No. A87-610. The Hawaii Department of Transportation (HDOT) understands Kamehameha Schools (KS) acquired the subject petition area in 2012, and in 2014 obtained an LUC approval to develop two utility-scale solar projects (Phase 1 and Phase 2) as interim uses for 35 years within the petition area. KS received LUC approval in 2020 for modifications to the 2014 Phase 2 project and relevant conditions. KS is now requesting LUC approvals for the Phase 1 project. The request is for the modification of the Phase 1 solar farm project as approved in 2014, a time extension for decommissioning of the two parcels of the Phase 1 project, and the release of two conditions and modification of eight conditions which were approved in the 2014 Findings of Fact, Conclusions of Law, and Decision and Order.

OPSD EXHIBIT 1



Access to the Phase 1 site is from the Ka Uka Boulevard to Mililani Memorial Park Road and Waiawa Prison Road to the project site's driveway.

HDOT has the following comments:

Airports Division (HDOT-A)

The HDOT-A has reviewed the Petitioner's request and does not have any concerns. The modification to Condition No. 4, Aircraft Hazard, on page 11 of the Memorandum in Support of Motion is valid and is applicable to both Phase 1 and 2.

Highways Division (HDOT-HWY)

The HDOT-HWY has the following comments relevant to State highways.

1. The HDOT-HWY concurs with the findings and recommendations of the Mobility Assessment, summarized as follows:
  - a. During Phase 1 operations, there would be less than 5 employees onsite at one time for periodic maintenance. Operations would have a negligible impact on State highways.
  - b. Construction duration would be 15 to 18 months, with completion anticipated in Fall 2023. The project would generate 142 trips (workers and construction trucks) during peak traffic hours during the three-month peak construction period. The analysis included a carpool factor of 1.5 workers per vehicle. The number of worker trips is an overestimate, because the workday would begin and end outside of the peak traffic hours. The projected 2023, without the project, includes: a population growth factor, completion of the HDOT-HWY programmed Ka Uka Boulevard/H-2 improvements are complete, and development of Increment 1, Phase 1 of the Koa Ridge project. The three Ka Uka Boulevard/H-2 intersections included in the Mobility Assessment were at the H-2 southbound off-ramp, southbound on-ramp, and northbound ramps. All three intersections would operate at acceptable Levels of Service (LOS), LOS D or better, in 2023 with or without the construction traffic. The project traffic would result in minor delays at the intersections, but the impacts would be temporary. No significant impacts to State highways capacity were identified, and no intersection improvements are warranted.
  - c. Potential construction impacts to Mililani Memorial Park Road and Waiawa Prison Road traffic safety will be addressed in a detailed Traffic Construction Management Plan (CMP). The Mobility Assessment mentions County approval of the CMP; however, the HDOT-HWY shall also approve the CMP per LUC Condition 5 modifications (See HDOT-HWY Comment 2). The HDOT-HWY supports travel demand strategies to reduce peak hour traffic, such as worker

carpools and schedule management, mentioned in the Mobility Assessment. These and other strategies should be specified in the CMP.

2. Table 1, Page 9 of the Memorandum in Support of Motion summarizes the proposed modifications to the 2014 Phase 1 LUC conditions. Condition 5, Traffic Impacts, is the only condition relevant to roadways and traffic. The following proposed language is based on the 2020 Condition 5 modifications approved for Phase 2: "Prior to the start of construction, Petitioner shall submit a Traffic Construction Management Plan for review and acceptance by the DOT."

The HDOT has no concerns regarding the proposed modification to Condition 5.

3. 2014 LUC Condition 1, Revised Master Plan, requires a revised master plan for the petition area, and Condition 9, Metes and Bounds Map and Description, requires a map of Phase 1 and 2 project areas. KS has met both conditions.

The HDOT has no concerns regarding releasing these two conditions, as requested in the 2021 motion.

4. Due to delays in Phase 1 construction, the current motion requests the Phase 1 decommissioning deadline approved in 2014, November 26, 2049, be extended. The proposed decommissioning deadlines are December 31, 2044, for Parcel A, and December 31, 2054, for Parcel B.

The HDOT has no concerns regarding the proposed time extensions.

If there are any questions, please contact Mr. Blayne Nikaido of the HDOT Statewide Transportation Planning Office at (808) 831-7979 or via email at [blayne.h.nikaido@hawaii.gov](mailto:blayne.h.nikaido@hawaii.gov).



## HAWAII STATE ENERGY OFFICE STATE OF HAWAII

DAVID Y. IGE  
GOVERNOR


SCOTT J. GLENN  
CHIEF ENERGY OFFICER

235 South Beretania Street, 5th Floor, Honolulu, Hawaii 96813  
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

Telephone: (808) 587-3807  
Fax: (808) 586-2536  
Web: [energy.hawaii.gov](http://energy.hawaii.gov)

January 24, 2022

To: Mary Alice Evans, Director  
Office of Planning and Sustainable Development

From: Scott J. Glenn, Chief Energy Officer  
Hawai'i State Energy Office 

Subject: Hawai'i State Energy Office Comments on the Motion for Modification, Time Extension, and Release and Modification of Conditions  
Land Use Commission Docket No. A87-610 Tom Gentry and Gentry-Pacific Ltd.

The Hawai'i State Energy Office (HSEO) offers the following comments on Kamehameha Schools' (KS) Motion for Modification, Time Extension, and Release and Modification of Conditions (Motion) for the Waiawa Phase 2 solar project (Project) under Land Use Commission (LUC) Docket No. A87-610. The Motion and its Memorandum in Support of Motion (Memo) seek to modify the LUC's 2014 approval of a since discontinued solar project on 387 acres of land owned by KS (Phase 1 Site) so that a new 30-megawatt alternating current solar project with a battery energy storage system (BESS) can be built on the same site by a new developer, The AES Corporation (AES).

HSEO appreciates the many factors that must be considered in the Motion but limits its comments to its statutory duties<sup>1</sup> and its mission to promote energy efficiency, renewable energy, and clean transportation to help achieve a resilient, clean energy, and ultimately carbon negative economy. Hawai'i law requires each of Hawai'i's electric utilities to meet a 100% renewable portfolio standard by the year 2045.<sup>2</sup> In addition, Act 15 (2018) established Hawai'i's zero emissions clean economy target, which set a statewide target to sequester more atmospheric carbon and greenhouse gas (GHG) than emitted within the state as quickly as practicable, but no later than 2045.<sup>3</sup> HSEO believes that it is important that Hawai'i's clean energy goals be attained without compromising the health, safety, and well-being of Hawai'i's residents, natural resources, culture, and environment.

HSEO supports approval of the Motion because of the potential environmental, economic, and energy-related benefits the Project offers to O'ahu and the State of Hawai'i.

<sup>1</sup> H.R.S. 196-71, Hawai'i State Energy Office; Established: [HRS \(hawaii.gov\)](http://hawaii.gov)

<sup>2</sup> H.R.S. 269-92, Renewable Portfolio Standards: [https://www.capitol.hawaii.gov/hrscurrent/Vol05\\_Ch0261-0319/HRS0269/HRS\\_0269-0092.htm](https://www.capitol.hawaii.gov/hrscurrent/Vol05_Ch0261-0319/HRS0269/HRS_0269-0092.htm)

<sup>3</sup> H.R.S. 225P-5, Zero Emissions Clean Economy Target: [http://www.capitol.hawaii.gov/hrscurrent/Vol04\\_Ch0201-0257/HRS0225P/HRS\\_0225P-0005.htm](http://www.capitol.hawaii.gov/hrscurrent/Vol04_Ch0201-0257/HRS0225P/HRS_0225P-0005.htm)

## Environmental and Energy Benefits

The Project is part of Hawaiian Electric Company's (HECO) plan to retire the state's only coal power plant on O'ahu by September 1, 2022, and additional fossil fuel powered generators (Wai'au 3 and 4) by January 1, 2024. It would help to: stabilize O'ahu's electricity costs by reducing reliance on highly price-volatile imported fossil fuels; enable the integration of more renewable energy; and, support electrical grid reliability through the Project BESS. The Project offers the following economic, environment, and energy benefits over its 20-year lifetime:

- Typical ratepayer (500 kilowatt-hours of use per month) savings of \$0.04 per month<sup>4</sup>
- 1.65% increase to O'ahu's renewable energy portfolio<sup>5</sup>
- Equivalent power for approximately 18,000 homes per year<sup>6</sup>
- 1,078,948 metric tons of GHG (CO<sub>2</sub> equivalent) avoided<sup>7</sup>
- 2,908,097 barrels of oil displaced<sup>8</sup>
- Approximately 150-200 direct jobs throughout its construction phase<sup>9</sup>

Due to its heavy reliance on fossil fuel, Hawai'i is vulnerable to unanticipated fuel supply disruptions, cost fluctuations, and liquid fuel releases, in addition to the many impacts associated with climate change. According to the U.S. Department of Energy, in 2019 and 2020, Hawai'i imported its crude oil primarily from Libya, Russia, Argentina, and South Sudan.<sup>10</sup> Crude oil and other imported petroleum products (diesel, jet fuel) are offloaded through floating moorings located offshore of Barbers Point on O'ahu. Petroleum products are then distributed to the other islands via interisland fuel barges, posing a risk to Hawai'i's marine ecosystem. The dependence on oil shipped long distances from other countries reduces Hawai'i's resiliency in the event of natural disaster or supply chain disruption, further highlighting the need to generate local renewable energy on island.

In 2020, 30.5% of O'ahu's electricity was generated by renewable energy resources: approximately 14.8% from residential solar, 6.1% from utility-scale solar, 6% from waste-to-

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<sup>4</sup> PUC Decision and Order at 25. Actual bill savings are uncertain and difficult to predict given the volatility of fossil fuel pricing, which the U.S. Energy Information Administration forecasts to increase steadily over the next 20 years. [U.S. Energy Information Administration \(EIA\) - Qb](#)

<sup>5</sup> PUC Decision and Order at 71.

<sup>6</sup> Memo at 24 and 37.

<sup>7</sup> Memo at 24 and 37.

<sup>8</sup> Memo at 24 and 37.

<sup>9</sup> Memo at 26-27.

<sup>10</sup> U.S. Energy Information Administration, State of Hawai'i Profile Analysis (last updated Jan. 21, 2021): [Hawaii - State Energy Profile Analysis - U.S. Energy Information Administration \(EIA\)](#). Refined petroleum products including jet fuel, propane, and low-sulfur diesel fuel are imported primarily from Asia, the Caribbean, and South America.



energy, 3.1% from wind, and 0.5% from biofuels.<sup>11</sup> Considerable work remains for O'ahu to achieve 100% renewable energy generation by 2045.

### **Project Decommissioning**

The Memo seeks LUC approval to decommission the Project in two phases to allow a portion of the Project to continue operating past its currently approved 20-year PPA, should the PPA be extended and/or a new PPA approved: Parcel A would be decommissioned by December 31, 2044, and Parcel B would be decommissioned by December 31, 2054. KS seeks this decommissioning schedule to match its Master Plan to develop the Phase 1 Site.<sup>12</sup> The Memo does not discuss the financial means to decommission the Project and restore the site.

The Memo states, "All metal components shall be recycled to the extent possible and no solar farm components shall be disposed of in any landfill in the State of Hawai'i."<sup>13</sup> In June 2021, the Hawai'i Department of Health (DOH) added solar panels as a category of universal waste under Hawai'i Administrative Rules Chapter 11-273.6.2. This rule establishes streamlined standards for handling hazardous waste solar panels under the universal waste program while maintaining the protection of human health and the environment. HSEO encourages AES to consult DOH and the appropriate regulatory agencies as needed in the development and execution of its decommissioning plan for this Project.

Act 92 signed by Governor Ige on June 28, 2021, directed the Hawai'i Natural Energy Institute, in consultation with DOH, to conduct a comprehensive study to determine best practices for disposal, recycling, or secondary use of clean energy products in the State of Hawai'i. In introducing this legislation, the Hawai'i State Legislature recognized the potential harm to the environment if used clean energy products are not recycled or disposed of properly, as well as the potential market value of recovered materials and elements.

### **Community Engagement and Public Support for the Project**

The Memo discusses the community outreach conducted for the Project, including elected officials, an initial public meeting on July 8, 2020, and presentations to Neighborhood

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<sup>11</sup> 2020 Renewable Portfolio Standard Status Report, Hawaiian Electric (Feb. 12, 2021): [DocumentViewer \(hawaii.gov\)](#).

<sup>12</sup> Memo at 8.

<sup>13</sup> Memo at 18.

Boards Nos. 21 (Pearl City), 22 (Waipahu), and 35 (Mililani Mauka/Launani Valley).<sup>14</sup> All three Neighborhood Boards No. 21,<sup>15</sup> 22,<sup>16</sup> and 35<sup>17</sup> voted unanimously to support the Project.

The PUC's December 30, 2020, order approving the Project PPA states, "The Commission has carefully reviewed Waiawa Solar's [AES's] efforts to reach out to the community and allay any concerns. Based on the foregoing, and upon review of the record, the Commission finds and concludes that Waiawa Solar [AES] has met the requirements related to the community outreach in both the RFP, as well as the PPA."<sup>18</sup>

HSEO appreciates the many positive contributions the Project could have on Hawai'i's renewable energy goals and supports approval of the Motion. If there are any questions, please contact Cameron Black at [cameron.b.black@hawaii.gov](mailto:cameron.b.black@hawaii.gov) or at 808-367-3955.

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<sup>14</sup> Memo at 38.

<sup>15</sup> [Pearl City NB October Minutes \(honolulu.gov\)](#)

<sup>16</sup> [Waipahu NB November Minutes \(honolulu.gov\)](#)

<sup>17</sup> [Mililani Mauka/ Launani Valley NB September Minutes \(honolulu.gov\)](#)

<sup>18</sup> PUC Decision and Order at 85.

DAVID Y. IGE  
GOVERNOR OF HAWAII



SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE  
MANAGEMENT

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
LAND DIVISION

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

January 26, 2022

LD 1457e

Mary Alice Evans, Director  
Office of Planning & Sustainable Development  
235 South Beretania Street, 6<sup>th</sup> Floor  
Honolulu, HI 96813

*Via email: [lorene.k.maki@hawaii.gov](mailto:lorene.k.maki@hawaii.gov)*

Dear Ms. Evans:

SUBJECT: **Waiawa Phase 2 Solar Farm**  
**Land Use Commission Docket No. A87-610**  
Motion for Modification, Time Extension, and Release and Modification  
of Conditions  
Waiawa, Ewa District, Island of Oahu  
TMK: (1) 9-4-006: 034, 035, 036, por. 037, and 9-6-004:por.024, 025, 026

Thank you for the opportunity to review and comment on the above subject. In addition to previous comments sent to you from the Department of Land and Natural Resources (DLNR) dated January 24, 2022, enclosed are comments from DLNR's Division of Forestry and Wildlife.

Should you have any questions, please feel free to contact Barbara Lee at 587-0453 or [barbara.j.lee@hawaii.gov](mailto:barbara.j.lee@hawaii.gov). Thank you.

Sincerely,

*Russell Tsuji*

Russell Y. Tsuji  
Land Administrator

Enclosure  
cc: Central Files

DAVID Y. IGE  
GOVERNOR OF HAWAII



SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE  
MANAGEMENT

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
LAND DIVISION

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

December 28, 2022

LD 1457e

**MEMORANDUM**

TO: **DLNR Agencies:**  
\_\_\_ Div. of Aquatic Resources (via email: [kendall.l.tucker@hawaii.gov](mailto:kendall.l.tucker@hawaii.gov))  
\_\_\_ Div. of Boating & Ocean Recreation  
☒ Engineering Division (via email: [DLNR.Engr@hawaii.gov](mailto:DLNR.Engr@hawaii.gov))  
☒ Div. of Forestry & Wildlife (via email: [rubyrosa.t.terrago@hawaii.gov](mailto:rubyrosa.t.terrago@hawaii.gov))  
\_\_\_ Div. of State Parks  
☒ Commission on Water Resource Management (via email: [DLNR.CWRM@hawaii.gov](mailto:DLNR.CWRM@hawaii.gov))  
\_\_\_ Office of Conservation & Coastal Lands  
☒ Land Division – Oahu District (via email: [darlene.bryant@hawaii.gov](mailto:darlene.bryant@hawaii.gov))

FROM: Russell Y. Tsuji, Land Administrator *Russell Tsuji*

SUBJECT: **Waiawa Phase 2 Solar Farm**  
**Land Use Commission Docket No. A87-610**

LOCATION: Waiawa, Ewa, Island of Oahu, Hawaii  
TMK: (1) (1) 9-4-006: 034, 035, 036, por 037; and 9-6-004: por. 024, 025, 026

APPLICANT: **Office of Planning & Sustainable Development on behalf of Kamehameha Schools**


Transmitted for your review and comment is information on the above-referenced project. Please review the attached information and submit any comments by the internal deadline of **January 21, 2022** to [barbara.j.lee@hawaii.gov](mailto:barbara.j.lee@hawaii.gov) at the Land Division.

If no response is received by the above due date, we will assume your agency has no comments at this time. Should you have any questions about this request, please contact Barbara Lee at [barbara.j.lee@hawaii.gov](mailto:barbara.j.lee@hawaii.gov). Thank you.

BRIEF COMMENTS:

( ) We have no objections.  
( ) We have no comments.  
( ) We have no additional comments.  
☒ Comments are included/attached.

Attachments  
Cc: Central Files

Signed:   
Print Name: DAVID G. SMITH, Administrator  
Division: Division of Forestry and Wildlife  
Date: Jan 26, 2022



DAVID Y. IGE  
GOVERNOR OF HAWAII



**STATE OF HAWAII**  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
DIVISION OF FORESTRY AND WILDLIFE  
1151 PUNCHBOWL STREET, ROOM 325  
HONOLULU, HAWAII 96813

SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA  
FIRST DEPUTY

M. KALEO MANUEL  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

January 26, 2022

**MEMORANDUM**

*Log no. 3480*

**TO:** RUSSELL Y. TSUJI, Land Administrator  
Land Division

**FROM:** DAVID G. SMITH, Administrator  
Division of Forestry and Wildlife

**SUBJECT:** **Division of Forestry and Wildlife Comments for the Waiawa Phase 2 Solar Farm, Land Use Commission Docket No. A87-610**

The Department of Land and Natural Resources, Division of Forestry and Wildlife (DOFAW) has received your request for comments for the proposed motion regarding the Waiawa Phase 2 Solar Farm project located at Waiawa, 'Ewa, on the Island of O'ahu, TMK: (1) (1) 9-4-006: 034, 035, 036, por 037; and 9-6-004: por. 024, 025, 026. The proposed project consists of developing a 30-megawatt solar farm within a previously approved 387-acre footprint. The petitioner is requesting that the Land Use Commission (LUC) approve an extension of time for the proposed solar farm and several revisions to existing conditions approved by LUC in a previous motion.

We appreciate and concur with the inclusion of mitigation measures in the Draft EA intended to avoid construction and operational impacts to State listed Hawaiian Hoary Bat (*Lasiurus cinereus semotus*), Hawaiian short-eared owl (*Asio flammeus sandwichensis*) and listed seabirds and waterbirds. We have no additional concerns regarding your avoidance and minimization measures for all state-listed species of concern.

We appreciate your efforts to work with our office for the conservation of our native species. Should the scope of the project change significantly, or should it become apparent that threatened or endangered species may be impacted, please contact our staff as soon as possible. If you have any questions, please contact Paul Radley, Protected Species Habitat Conservation Planning Coordinator at (808) 295-1123 or [paul.m.radley@hawaii.gov](mailto:paul.m.radley@hawaii.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "DGS", is placed above the printed name of the administrator.

DAVID G. SMITH  
Administrator

DAVID Y. IGE  
GOVERNOR OF HAWAII



SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE  
MANAGEMENT

**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**  
**LAND DIVISION**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

January 24, 2022

LD 1457e

Mary Alice Evans, Director  
Office of Planning & Sustainable Development  
235 South Beretania Street, 6<sup>th</sup> Floor  
Honolulu, HI 96813

*Via email: [lorene.k.maki@hawaii.gov](mailto:lorene.k.maki@hawaii.gov)*

Dear Ms. Evans:

**SUBJECT: Waiawa Phase 2 Solar Farm**  
**Land Use Commission Docket No. A87-610**  
Motion for Modification, Time Extension, and Release and Modification  
of Conditions  
Waiawa, Ewa District, Island of Oahu  
TMK: (1) 9-4-006: 034, 035, 036, por. 037, and 9-6-004:por.024, 025, 026

Thank you for the opportunity to review and comment on the subject project. The Land Division of the Department of Land and Natural Resources (DLNR) distributed copies of your request to DLNR's various divisions for their review and comment.

Enclosed are comments received from our Engineering Division. Should you have any questions about the attached responses, please feel free to contact Barbara Lee via email at [barbara.j.lee@hawaii.gov](mailto:barbara.j.lee@hawaii.gov). Thank you.

Sincerely,

*Russell Tsuji*

Russell Y. Tsuji  
Land Administrator

Enclosure(s)  
cc: Central Files



DAVID Y. IGE  
GOVERNOR OF HAWAII



SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE  
MANAGEMENT

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
LAND DIVISION

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

December 28, 2022

LD 1457e

**MEMORANDUM**

FROM:

~~TO:~~

**DLNR Agencies:**

- ☐ Div. of Aquatic Resources (via email: [kendall.l.tucker@hawaii.gov](mailto:kendall.l.tucker@hawaii.gov))
- ☐ Div. of Boating & Ocean Recreation
- ☒ **Engineering Division** (via email: [DLNR.Engr@hawaii.gov](mailto:DLNR.Engr@hawaii.gov))
- ☒ Div. of Forestry & Wildlife (via email: [rubyrosa.t.terrago@hawaii.gov](mailto:rubyrosa.t.terrago@hawaii.gov))
- ☐ Div. of State Parks
- ☒ Commission on Water Resource Management (via email: [DLNR.CWRM@hawaii.gov](mailto:DLNR.CWRM@hawaii.gov))
- ☐ Office of Conservation & Coastal Lands
- ☒ Land Division – Oahu District (via email: [darlene.bryant@hawaii.gov](mailto:darlene.bryant@hawaii.gov))

TO:

~~FROM:~~

Russell Y. Tsuji, Land Administrator

*Russell Tsuji*

SUBJECT:

**Waiawa Phase 2 Solar Farm**

LOCATION:

**Land Use Commission Docket No. A87-610**

Waiawa, Ewa, Island of Oahu, Hawaii

APPLICANT:

TMK: (1) (1) 9-4-006: 034, 035, 036, por 037; and 9-6-004: por. 024, 025, 026

**Office of Planning & Sustainable Development on behalf of Kamehameha Schools**

Transmitted for your review and comment is information on the above-referenced project. Please review the attached information and submit any comments by the internal deadline of **January 21, 2022** to [barbara.j.lee@hawaii.gov](mailto:barbara.j.lee@hawaii.gov) at the Land Division.

If no response is received by the above due date, we will assume your agency has no comments at this time. Should you have any questions about this request, please contact Barbara Lee at [barbara.j.lee@hawaii.gov](mailto:barbara.j.lee@hawaii.gov). Thank you.

BRIEF COMMENTS:

- ( ) We have no objections.
- ( ) We have no comments.
- ( ) We have no additional comments.
- ( ☒ ) Comments are included/attached.

Signed:

Print Name:

Carty S. Chang, Chief Engineer

Division:

Engineering Division

Date:

Jan 18, 2022

Attachments

Cc: Central Files

**DEPARTMENT OF LAND AND NATURAL RESOURCES  
ENGINEERING DIVISION**

**LD/Russell Y. Tsuji**

**Ref: Waiawa Phase 2 Solar Farm**

**Land Use Commission Docket No. A87-610**

**Location: Waiawa, Ewa, Island of Oahu, Hawaii**

**TMK(s): (1) 9-4-006: 034, 035, 036, por 037; and 9-6-004: por. 024, 025, 026**

**Applicant: Office of Planning & Sustainable Development on behalf of  
Kamehameha Schools**

**COMMENTS**

The rules and regulations of the National Flood Insurance Program (NFIP), Title 44 of the Code of Federal Regulations (44CFR), are in effect when development falls within a Special Flood Hazard Area (high-risk areas). Be advised that 44CFR, Chapter 1, Subchapter B, Part 60 reflects the minimum standards as set forth by the NFIP. Local community flood ordinances may stipulate higher standards that can be more restrictive and would take precedence over the minimum NFIP standards.

The owner of the project property and/or their representative is responsible to research the Flood Hazard Zone designation for the project. Flood zones subject to NFIP requirements are identified on FEMA's Flood Insurance Rate Maps (FIRM). The official FIRMs can be accessed through FEMA's Map Service Center ([msc.fema.gov](http://msc.fema.gov)). Our Flood Hazard Assessment Tool (FHAT) (<http://gis.hawaiiinfip.org/FHAT>) could also be used to research flood hazard information.

If there are questions regarding the local flood ordinances, please contact the applicable County NFIP coordinating agency below:

- Oahu: City and County of Honolulu, Department of Planning and Permitting (808) 768-8098.
- Hawaii Island: County of Hawaii, Department of Public Works (808) 961-8327.
- Maui/Molokai/Lanai: County of Maui, Department of Planning (808) 270-7139.
- Kauai: County of Kauai, Department of Public Works (808) 241-4849.

Signed:   
CARTY S. CHANG, CHIEF ENGINEER

Date: Jan 18, 2022