

LAND USE COMMISSION
STATE OF HAWAI'I

Hearing held on January 22, 2020
Commencing at 9:00 a.m.
Grand Ballroom-Ko'olau Ballrooms and Conference
Center
45-550 Kionaole Road
Kaneohe, Hawaii 96744

AGENDA

I. Call to Order

II. Adoption of Minutes

III. Tentative Meeting Schedule

IV. HEARING AND ACTION

A17- 804 Hawaiian Memorial Life Plan, Ltd.

To consider Petition to Amend the Conservation
Land Use District Boundary into the Urban Land
Use District for Approximately 53.449 acres of
Land at Kane'ohe, Island of O'ahu, State of
Hawaii'i TMK (1) 4-5-033:por.001

V. EXECUTIVE SESSION

(To be conducted during a "working lunch" as an
integral part of this meeting)

Appeal from the Commission's Order Denying
Petition for Declaratory Order in DR19-67
Ku'u lei Higashi Kanahele

The Commission intends to convene an executive
session pursuant to HRS Section 92-5(a)(4) to
consult with its attorney regarding the
Commission's powers, duties, privileges,
immunities, and liabilities regarding the
Petitioners' appeal from the Commission's
Order Denying Petition for Declaratory Order,
filed in the Hawaii Supreme Court in Docket
No. SCOT-19-0000830

VI. ADJOURNMENT

BEFORE: Jean Marie McManus, CSR #156

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APPEARANCES:

JONATHAN SCHEUER, Chair
NANCY CABRAL, Vice Chair
DAWN N.S. CHANG
GARY OKUDA
LEE OHIGASHI
ARNOLD WONG
DAN GIOVANNI

STAFF:

AMANDA WESTON, ESQ.
Deputy Attorney General

DANIEL ORODENKER, Executive Officer
RILEY K. HAKODA, Planner/Chief Clerk
SCOTT A.K. DERRICKSON, AICP-Planner
RASMI AGRAHARI, Planner

DAWN APUNA, ESQ.
Deputy Attorney General
RODNEY FUNAKOSHI, Planning Programming Administrator
LORENE MAKI, Planner
For State Office of Planning

DUANE W.H. PANG, ESQ.
Dept. Of Corporation Counsel
DINA WONG, Planner
Dept. of Planning and Permitting
For City and County of Honolulu

BENJAMIN MATSUBARA, ESQ.
CURTIS TABATA, ESQ.
Attorneys for Petitioner

GRANT YOSHIMORI
RICH McCREEDY
For Intervenors Hui O Pikoiloa

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1 CHAIRPERSON SCHEUER: Aloha mai kakou.

2 This is the January 22nd, 2020, Land Use
3 Commission meeting.

4 Our first order of business is the adoption
5 of the January 8th and 9th, 2020 minutes, however,
6 the LUC staff has advised that the minutes are not
7 ready yet and will have to be deferred.

8 The next agenda item is the tentative
9 meeting schedule. Mr. Orodenker.

10 EXECUTIVE OFFICER: Thank you, Mr. Chair.

11 Tomorrow's hearing has been postponed due
12 to lack of quorum.

13 On February 5th we will be holding a video
14 conference for the Windward Hotel matter. The actual
15 location of the hearing will be on Maui, but the
16 Commissioners will be attending by videoconference.

17 And then nothing on the calendar, due for
18 budget reasons, until April when we will resume
19 hearings.

20 CHAIRPERSON SCHEUER: Thank you.

21 Commissioners, do you have any questions
22 for Mr. Orodenker?

23 Before I begin with our next agenda item,
24 the main agenda item today, since we have so many new
25 friends in the audience, I will share with you a

1 brief few words about this Commission.

2 The Land Use Commission is responsible for,
3 among other things, maintaining and adjusting the
4 four land use district boundaries in the State of
5 Hawai'i.

6 There are nine possible members of the
7 Commission. We have one vacancy, so there are eight
8 of us sitting on the Commission right now.

9 We are appointed by the Governor and
10 confirmed by the Senate. We serve as volunteers. We
11 do this because we think it's a way to contribute to
12 our community and to the State of Hawai'i

13 And we try to do our best job. If you
14 don't think we do our best job, some of us are coming
15 up for confirmation hearings in this legislative
16 session, and you'll have every right to come and
17 testify against us, or if you think we're doing a
18 good job, you could support us.

19 A17-804 Hawaiian Memorial Life Plan, Ltd

20 Our next agenda item is Hearing and Action
21 meeting on Docket No. A17-804 Hawaiian Memorial Life
22 Plan, Ltd, to consider a Petition to Amend the
23 Conservation Land Use District Boundary into the
24 Urban Land Use District for Approximately 53.449
25 acres of Land at Kane'ohe, Island of O'ahu, State of

1 Hawai'i TMK (1) 4-5-033: por.001.

2 Before we begin the agenda item, as Chair I
3 would like to inform the Parties and the Public that
4 the Commission will also be addressing agenda item V.
5 EXECUTIVE SESSION, during lunch as an integral part
6 of the meeting and then resume proceedings on the
7 Docket No. A17-804 Hawaiian Memorial Life Plan after
8 lunch.

9 We'll shoot for lunch at approximately
10 12:30. That might be subject to change depending on
11 the flow of the morning.

12 Will the Parties on Docket No. A17-804
13 please identify themselves for the record?

14 And for all the parties, I urge you to
15 speak right into the microphone.

16 MR. TABATA: Good morning, Chair, Members
17 of the Commission. Benjamin Matsubara and Curtis
18 Tabata appearing on behalf of the Petitioner Hawaiian
19 Memorial Life Plan, Ltd.

20 MR. PANG: Good morning, Mr. Chair, Members
21 of the Commission. Duane Pang, Deputy Corporation
22 Counsel on behalf City and County of Honolulu.

23 COMMISSIONER WONG: Dina Wong, City and
24 County of Honolulu, Department of Planning and
25 Permitting.

1 MS. APUNA: Good morning, Chair, Members of
2 the Commission. Dawn Apuna, Deputy Attorney General
3 on behalf of the State Office of Planning. Here with
4 me today is Lorene Maki and Rodney Funakoshi.

5 MR. YOSHIMORI: Good morning. I'm Grant
6 Yoshimori with Richard McCreedy, Intervenors pro se.

7 CHAIRPERSON SCHEUER: Thank you very much.
8 Before I go on to update the record, this
9 is not the first hearing we've heard related to this
10 document. We did the acceptance of the EIS earlier,
11 and we did the disclosures at that time, but at that
12 time we did not have officially an intervenor on the
13 docket.

14 So I would like to ask the Commissioners if
15 you have any disclosures to make at this time.

16 COMMISSIONER GIOVANNI: I would like to
17 disclose that Mr. Yoshimori and I worked together at
18 Hawaiian Electric Company for a few years on a
19 totally unrelated matter to this docket, and I don't
20 think it has any influence on my ability to make a
21 fair and objective decision in this matter

22 CHAIRPERSON SCHEUER: Thank you,
23 Commissioner.

24 Are there any objections to Commissioner
25 Giovanni's continued participation in this docket?

1 MR. TABATA: No objection.

2 MR. PANG: No objection.

3 MS. APUNA: No objection.

4 MR. YOSHIMORI: No objection.

5 CHAIRPERSON SCHEUER: Commissioner Chang.

6 COMMISSIONER CHANG: I just previously did
7 some consulting work for Hawaiian Memorial Park. I
8 am no longer doing any work with them.

9 I do not believe that my previous work will
10 unduly influence my ability to hear all of the
11 information and make a fair decision. Thank you

12 CHAIRPERSON SCHEUER: Are there any
13 objections to Commissioner Chang's participation?

14 MR. TABATA: No objection.

15 MR. PANG: No objection.

16 MS. APUNA: No objection.

17 MR. YOSHIMORI: No objection.

18 CHAIRPERSON SCHEUER: Commissioner Okuda.

19 COMMISSIONER OKUDA: Thank you, Mr. Chair.

20 As disclosed earlier, my grandparents are
21 buried at Hawaiian Memorial Park. My parents and my
22 late father have a plot at Hawaiian Memorial Park. I
23 have no pecuniary interest in any of these cemetery
24 plots, and these facts will not affect my
25 decision-making in this case.

1 CHAIRPERSON SCHEUER: Thank you,
2 Commissioner Okuda. Any objections?

3 MR. TABATA: No objection.

4 MR. PANG: No objection.

5 MS. APUNA: No objection.

6 MR. YOSHIMORI: No objection.

7 CHAIRPERSON SCHEUER: Commissioner Wong.

8 COMMISSIONER WONG: As stated previously, I
9 also do have family plots at Hawaiian Memorial and
10 also personal plots that I'm not using at this time
11 that are --

12 CHAIRPERSON SCHEUER: Is that emotion --

13 COMMISSIONER WONG: I don't want to be in
14 there right now. I can be fair in this matter.

15 CHAIRPERSON SCHEUER: Thank you,
16 Commissioner Wong.

17 Any objections to Commissioner Wong?

18 MR. TABATA: No objection.

19 MR. PANG: No objection.

20 MS. APUNA: No objection.

21 MR. YOSHIMORI: No objection.

22 CHAIRPERSON SCHEUER: The Chair -- I also
23 will disclose that I am currently, until the end of
24 January, the Chair also of the Hawaiian Islands Land
25 Trust Board of Directors.

1 The Applicant in this Docket has approached
2 the Hawaiian Islands Land Trust as possibly receiving
3 a Conservation Easement following the development of
4 the cemetery expansion. It's in the record that our
5 then CEO responded to the cemetery and said that
6 because of the nature of our nonprofit operations and
7 our land trust standards and practices, we would not
8 issue any -- issuance of a Conservation Easement
9 until this matter was fully disposed of.

10 I also donate money to the Land Trust. I
11 don't earn money from the Land Trust, so it's a
12 charitable cause. But I have that disclosure to
13 make.

14 Are there any objections to my continued
15 participation in this matter?

16 MR. TABATA: No objection.

17 MR. PANG: No objection.

18 MS. APUNA: No objection.

19 MR. YOSHIMORI: No objection.

20 CHAIRPERSON SCHEUER: Now, let me update
21 the record.

22 On November 21st, 2019, the Commission met
23 at the State Office Tower Conference room in
24 Honolulu, Hawaii, for an Action Meeting on Docket No.
25 A17-804 Hawaiian Memorial Life Plan, Ltd (O'ahu) to

1 Consider Hui O Pikiloa, an unincorporated
2 Association, Lianne Ching, Bettye Harris, Richard
3 McCreedy, Julianne McCreedy, Jesse Reavis and Grant
4 Yoshimori's Petition to Intervene and voted to grant
5 the Petition. Later that day, the Commission
6 conducted a site visit of the Hawaiian Memorial Life
7 Plan's Petition Area.

8 From November 22nd until recently, the
9 Commission received public comments via email and
10 written correspondence on this matter which have been
11 made part of the record and are posted to the Land
12 Use Commission's website.

13 On December 3rd, 2019, the Commission
14 mailed a Pre-Hearing Meeting Notice to the Parties
15 and Intervenor.

16 On December 9th, the Commission received
17 the following documents:

- 18 * The Petitioner's List of Witnesses and
19 Exhibits.
- 20 * The County's Position Statement and
21 Witness List.
- 22 * Intervenor's Position Statement, Witness
23 And Exhibit Lists as well as Exhibits 1-14.
- 24 * OP's Witness and Exhibit Lists.

25 On December 13th, 2019, the Commission

1 mailed the Order Granting Hui O Pikoiloa's Petition
2 to Intervene in Hawaiian Memorial Life Plan, Ltd's
3 Petition for Land Use District Boundary Amendment
4 dated December 13 of 2019.

5 On December 23rd, 2019, the Commission
6 received the following documents:

7 * The Intervenor's digital copy of its
8 Witness List and Witness Written Direct
9 Testimony.

10 * OP's testimony in Support of Petition with
11 Conditions, First Amended Exhibit Lists and
12 Exhibits 1, 2, 2A, 3 to 9.

13 * Petitioner's First Amended List of
14 Exhibits, Exhibits 23-43.

15 * DPP's written testimony of Kathy Sokugawa
16 and Exhibit-Koolau Poko Sustainable
17 Communities Plan.

18 On January 6th of this year, the Commission
19 received:

20 * Petitioner's List of Rebuttal Witnesses,
21 List of Rebuttal Exhibits, Exhibits 44
22 through 53. As well as --

23 * Intervenor's Rebuttal Revised Witness
24 Testimony.

25 On January 14th, 2020, the Commission

1 mailed the Notice of Agenda to the Parties and the
2 Statewide, email and Oahu mailing lists.

3 Now, let me run over our procedures for
4 today.

5 First, I will give the opportunity for the
6 Petitioner to comment on the Commission's Policy
7 governing reimbursement of hearing expenses.

8 I will then call on any individuals wishing
9 to give public testimony on this matter. There is a
10 sign-in sheet that's been up there.

11 If you still desire to give testimony and
12 you've not signed in yet, I will ask you to approach
13 Riley Hakoda, who is raising his hand right now.

14 Following all public testimony on this
15 matter, I will then give an opportunity for the
16 Parties to admit their exhibits to the record.

17 After the admission of exhibits, Petitioner
18 will present their case. Once the Petitioner has
19 completed with their presentation, it will be
20 followed in turn by the City and County of Honolulu,
21 State Office of Planning and Intervenor.

22 Though I suspect that we're not going to
23 get through all those matters in today's agenda.

24 The Chair will also note for the Parties
25 and the public, from time to time, approximately

1 every 50 minutes or an hour, I will call for a break.

2 Are there any questions for our procedures
3 for today?

4 MR. TABATA: No questions.

5 MR. PANG: No questions.

6 MS. APUNA: No questions.

7 MR. YOSHIMORI: No questions.

8 CHAIRPERSON SCHEUER: Mr. Tabata, have you
9 reviewed HAR 15-15-45.1 with regard to the
10 reimbursement of hearing expenses?

11 MR. TABATA: Yes.

12 CHAIRPERSON SCHEUER: What is your client's
13 position?

14 MR. TABATA: Petitioner will comply.

15 CHAIRPERSON SCHEUER: We will now begin
16 with public testimony. And I'll go over the
17 procedure for everybody signed up.

18 I'm going to call up the name of the first
19 person, and then the person immediately following
20 them. Next to our court reporter there is a seat
21 that says "public witness". We will follow the same
22 procedure for everybody.

23 You'll speak right into the microphone.

24 You'll make sure that the microphone is turned on.

25 I'm going to limit testimony to three minutes. If I

1 called your name to be the next witness, please come
2 up and sit in the chair behind the public witness to
3 speed along how we will take witnesses.

4 I will then swear you in. You will take an
5 oath to tell the truth. And following that, you'll
6 state your name and your address for the record and
7 you'll have three minutes to testify.

8 Our first two witnesses are Cathy Ignacio,
9 followed by -- the other thing I'll say is, if I
10 can't read your handwriting, I might I mispronounce
11 your name, even if I can read your handwriting, I
12 might mispronounce your name.

13 Cathy Ignacio, followed by Naomi Takai.

14 Aloha, good morning.

15 THE WITNESS: Aloha, good morning.

16 CHAIRPERSON SCHEUER: Do you swear or
17 affirm the testimony you're about to give is the
18 truth?

19 THE WITNESS: Yes.

20 CHAIRPERSON SCHEUER: Please state your
21 name and address for the record, and then proceed.

22 CATHY IGNACIO

23 Was called as a witness by and on behalf of the
24 Public, was sworn to tell the truth, was examined and
25 testified as follows:

1 DIRECT EXAMINATION

2 THE WITNESS: My name is Cathy Ignacio, and
3 I live at 91-1038 Waiilikahi Street, Ewa Beach.

4 CHAIRPERSON SCHEUER: Please proceed.

5 THE WITNESS: My name is Cathy Ignacio, and
6 I'm here testifying in support of the proposed
7 expansion of Hawaiian Memorial Park.

8 My relationship with Hawaiian Memorial Park
9 dates back to about 2015 when they were supporting
10 Gold Star Families. For those of you that are not
11 familiar, Gold Star Family members are families of
12 the fallen loved ones who have died while in active
13 duty.

14 Unfortunately, I'm a Gold Star spouse. I
15 lost my husband back in 2012. So Hawaiian Memorial
16 Park has supported us since then, to include other
17 family members and our brethren.

18 Just recently back in March of 2017 we have
19 what's called our Gold Star Family Memorial Monument
20 that Hawaiian Memorial Park was our donor, financial
21 donor of the monument. And this monument signifies a
22 lot of our Gold Star Family members. And it's right
23 out in the park.

24 And why that is so significant to us
25 because we have this memorial that represents us as a

1 community. And Hawaiian Memorial park truly has been
2 not just a financial donor, but most importantly a
3 big support to us Gold Star Families, and ensuring
4 that:

5 1) We're never forgotten.

6 2) Our fallen service members are always
7 honored and remembered.

8 And this monument truly has signified that
9 since 2017.

10 And then we honor our Gold Star Family
11 members and our falling service members every year.

12 I apologize, I'm just getting my notes up
13 here.

14 One of the things that I also want to share
15 in addition to being a Gold Star Family member, and
16 the support that Hawaiian Memorial Park has provided
17 us is that Hawaiian Memorial Park has been an
18 important part of the community for over 60 years.

19 And over that standing, serves 10,000 of
20 Oahu families.

21 Today Hawaiian Memorial Park continues to
22 provide a vital service, but the available inventory
23 burial space at the cemetery is nearly exhausted.

24 As one of only a handful of active state
25 regulated cemeteries on the island, it is vital to

1 approve Hawaiian Memorial Park's expansion plan to
2 meet growing demand from our aging population.

3 Hawaiian Memorial Park has infrastructure
4 to support our community into the future. Hawaiian
5 Memorial Park has also made an unprecedented step of
6 commitment to support our culture and environment,
7 which includes a cultural preserve -- and please
8 excuse me if I pronounce this wrong -- Kawa'ewa'e
9 Heiau, a Conservation Easement on the entire parcel
10 for future development, and a voluntary management
11 plan to protect the habitat for the endangered
12 damselfly.

13 CHAIRPERSON SCHEUER: If you could
14 summarize your testimony. It's been three minutes.

15 THE WITNESS: To conclude my testimony.

16 We support expansion of Hawaiian Memorial
17 Park, and stated what I've shared, because of the
18 support of our Gold Star Families and the other key
19 messages that I shared. Thank you.

20 CHAIRPERSON SCHEUER: Thank you. I'm sorry
21 for your loss, and thank you for your husband's
22 service.

23 I've forgotten to mention to you and to all
24 other witnesses, after you give your testimony,
25 there's an opportunity to be questioned by all the

1 Parties and the Commission.

2 Any questions for the witness?

3 MR. TABATA: No questions.

4 MR. PANG: No questions.

5 MS. APUNA: No questions.

6 MR. YOSHIMORI: No questions.

7 CHAIRPERSON SCHEUER: Commissioners?

8 Thank you very much.

9 Next testifier Naomi Takai, followed by
10 Dean Hazama.

11 Aloha, good morning.

12 Do you swear or affirm the testimony you're
13 about to give is the truth?

14 THE WITNESS: I do.

15 CHAIRPERSON SCHEUER: State your name and
16 address for the record.

17 NAOMI TAKAI

18 Was called as a witness by and on behalf of the
19 Public, was sworn to tell the truth, was examined and
20 testified as follows:

21 DIRECT EXAMINATION

22 THE WITNESS: Naomi Takai, 94-938 Lumihoahu
23 Street, Waipahu 96797.

24 Before I start, I would like to thank the
25 people who have these red stickers. Thank you so

1 much, because it says: "Save Conservation Land," and
2 that's exactly what our testimony is all about, to
3 save and preserve. So I thank you for being here
4 today.

5 Aloha, Commissioners. My name is Naomi
6 Takai, and I'm testifying in support of the proposed
7 expansion of Hawaiian Memorial Park.

8 HMP has been an important part of the
9 community for over 60 years. My husband and I
10 purchased a lot over 50 years ago, in our early 20s,
11 which gave us a choice of where we want to be laid to
12 rest.

13 We have since experienced a very positive
14 culture with HMP with its involvement with community
15 service. One in particular is the Gold Star Families
16 Monument dedicated on March 17, 2018, donated to the
17 families and their fallen loved ones. This monument
18 serves as a place to gather, reflect and educate the
19 public of the ultimate sacrifice made for us.

20 Another event that is very close to my
21 heart is the contribution made to K. Mark Takai
22 Foundation to assist in the perpetuation of
23 Congressman Takai's advocacy in education, making a
24 difference in someone's life.

25 The "Go For Broke: An Origin Story"

1 written and produced by Stacey Hayashi and dedicated
2 to Congressman Takai benefitted from Hawaiian
3 Memorial Park's support. The movie was voted Best
4 Hawaiian Film in 2017 by the Hawaii Film Critics
5 Society, and its far reaching also won Outstanding
6 Feature Film at the 2018 Normandy WW II Film Festival
7 in France.

8 The unselfish, positive attitude HMP shares
9 with the wider community makes me think of Dalai
10 Lama:

11 "Just as ripples spread out when a single
12 pebble is dropped into water, the actions of
13 individuals can have far-reaching effects."

14 That being said, without the approval of
15 the requested expansion, the need to protect the
16 Hawaiian cultural sites, as well as the damselfly
17 habitat, will not be protected and could be lost.
18 Will the opposition be able to protect these areas
19 now and into the future?

20 The master plan HMP has in place addresses
21 these concerns, as well as agreeing to put a
22 Conservation Easement on the entire parcel
23 prohibiting any future development.

24 CHAIRPERSON SCHEUER: I'm going to ask you
25 to summarize, please.

1 THE WITNESS: Excuse me?

2 CHAIRPERSON SCHEUER: It's been three
3 minutes. If I may ask you to summarize.

4 THE WITNESS: I would like to read a
5 question to ask yourselves, Commissioners, if you
6 don't mind.

7 With all that Hawaiian Memorial Park has
8 done, providing community services, providing over
9 41,000 individuals interred at the cemetery, and
10 working with the master plan to address community
11 concerns to preserve and protect the Hawaiian
12 cultural sites and the damselfly habitat, agreeing to
13 put a Conservation Easement on the entire parcel, I
14 ask you, how can you not vote for HMP's extension?
15 And I thank you.

16 CHAIRPERSON SCHEUER: Thank you very much.
17 Are there questions for the witness?

18 MR. TABATA: No questions.

19 MR. PANG: No questions.

20 MS. APUNA: No.

21 MR. YOSHIMORI: No.

22 CHAIRPERSON SCHEUER: Commissioners?
23 Thank you.

24 Our next testifier is Dean Hazama, followed
25 by Melvin Kalahiki.

1 Aloha. Do you swear or affirm the
2 testimony you're about to give is the truth?

3 THE WITNESS: I do.

4 DEAN HAZAMA

5 Was called as a witness by and on behalf of the
6 Public, was sworn to tell the truth, was examined and
7 testified as follows:

8 DIRECT EXAMINATION

9 THE WITNESS: Dean Hazama. Address is
10 95-215 Luaehu, L-U-A-E-H-U, Place, Mililani 96789.

11 Good morning, Chair Scheuer and Members of
12 the State Land Use Commission. My name is Dean
13 Hazama. I thank you for this opportunity to testify
14 this morning on this issue before you.

15 As Chair of the Honolulu Planning
16 Commission in 2017 during the time that the update of
17 the Ko'olaupoko Sustainable Community Plan was before
18 us, we had the opportunity to thoroughly review all
19 these details of this project.

20 After listening, along with my fellow
21 Commissioners, to many hours of public testimony,
22 review and deliberation by the Commission, we found
23 that the expansion of Hawaiian Memorial Park was:

24 (1) within the land use policies and
25 guidelines; and

1 Q Yes, with regard to this Hawaiian Memorial
2 project.

3 A No. At that time the Commission was asked
4 to determine whether, again, the cemetery was an
5 appropriate use of that property in that region. So
6 we did not -- there was no request before the
7 Planning Commission at that time to relocate any
8 boundaries.

9 Q Thank you.

10 CHAIRPERSON SCHEUER: Commissioners?

11 Commissioner Okuda.

12 COMMISSIONER OKUDA: Thank you, Mr. Chair.

13 Thank you for coming here today, Mr.

14 Hazama.

15 When your group or Commission took the
16 action that it did, did it consider the provision or
17 provisions in the Hawai'i State Constitution which
18 speak to the need to make decisions with the view of
19 sustainability and preservation of natural resources?

20 THE WITNESS: I think that's the crux of
21 this sustainable community plan for each region.

22 So with the Honolulu Planning Commission,
23 so we are in charge of the Island of Oahu, so we
24 divide up our sustainable community plan within
25 separate regions.

1 So to answer your question, yes, I guess.

2 COMMISSIONER OKUDA: And in considering the
3 issue of sustainability, did your group consider, for
4 example, the amount of soil which would be excavated
5 as part of the planned expansion?

6 THE WITNESS: During the sustainable
7 community plan review, there are no details to that
8 nature as far as the project at that time.

9 So as far as specific volumes of material,
10 et cetera, those things are not presented before us.

11 COMMISSIONER OKUDA: So, for example, I
12 read in the Final EIS and in some of the engineering
13 reports that there might be cuts into the Oneawa
14 Hills of 75 feet.

15 So that type of action or potential impacts
16 of Oneawa Hills was not considered by your group,
17 correct?

18 THE WITNESS: Only as addressed in the
19 Draft EIS.

20 COMMISSIONER OKUDA: Were the amount or
21 potential excavation of soil from the expansion
22 considered by your group or your Commission?

23 THE WITNESS: I believe it was addressed as
24 well as the concern regarding runoff, water runoff in
25 regard to the project.

1 COMMISSIONER OKUDA: Can you point -- or
2 can you recall any evidence that you saw which
3 quantified the projected or potential amount of
4 runoff from this development, even if best management
5 practices are used?

6 THE WITNESS: I don't recall any specifics
7 as far as numbers.

8 COMMISSIONER OKUDA: And did your group
9 consider alternatives besides the expansion of
10 Hawaiian Memorial Park to increase capacity for
11 burials, inurnments, not only specifically at
12 Hawaiian Memorial Park, but perhaps at other
13 cemeteries or other facilities on Oahu?

14 THE WITNESS: No. I think that would be
15 outside the scope of the sustainable community plan's
16 review at that time. In other words, we only
17 basically deliberate on the issues before us, so
18 we're not -- and it specifically deals with
19 sustainable community plans for that region.

20 COMMISSIONER OKUDA: So, in other words,
21 there may be other issues that the Land Use
22 Commission must consider based on the requirements,
23 not only of the statute, but of the Hawai'i State
24 Constitution, which issues your Commission did not
25 consider; is that a fair statement?

1 THE WITNESS: Yeah, most definitely.

2 COMMISSIONER OKUDA: Thank you very much.
3 Thank you, Chair.

4 CHAIRPERSON SCHEUER: Commissioners?
5 Commissioner Chang.

6 COMMISSIONER CHANG: Thank you for being
7 here this morning. I just wanted to follow up on a
8 question.

9 Did the Planning Commission consider the
10 150-foot buffer from the residential homes and the
11 2000-foot buffer from Pohai Nani Senior Living
12 Community?

13 THE WITNESS: I believe that was stated
14 during the testimony in the project.

15 COMMISSIONER CHANG: That was something
16 that the Planning Commission considered?

17 THE WITNESS: That was presented before us,
18 yes.

19 COMMISSIONER CHANG: Thank you.

20 CHAIRPERSON SCHEUER: Any further questions
21 for Mr. Hazama?

22 Thank you very much for your testimony.

23 Next testifier, Mel Kalahiki followed by
24 Jarrae Fautanu.

25 Aloha, good morning.

1 Do you swear or affirm that the testimony
2 you're about to give is the truth?

3 THE WITNESS: I do swear.

4 CHAIRPERSON SCHEUER: Please state your
5 name and address for the record.

6 MELVIN KALAHIKI, JR.

7 Was called as a witness by and on behalf of the
8 Public, was sworn to tell the truth, was examined and
9 testified as follows:

10 DIRECT EXAMINATION

11 THE WITNESS: Good morning, Mr. Chairman
12 and Members of the Commission. My name is Melvin
13 Kalahiki, Jr. I am a lifelong member and resident of
14 Kaneohe.

15 My wife and I bought our first house in
16 1987, Kaneohe Ranch. My children all went -- they
17 graduated from Castle High School.

18 Hawaiian Memorial Park is a family place.
19 We gather there. I have generations, my grandmother,
20 grandparents are buried there. My mom's there. My
21 brother's there. Uncles, aunties, families are
22 there.

23 This is a place where families come to
24 reflect at times of anniversaries and holidays to
25 remember. We all go over there. All of us went

1 there at one time or another for somebody's
2 anniversary or celebration.

3 HMP is a place where I want to be. I want
4 to be buried there with my family. I don't want to
5 be buried anywhere else on this island but Hawaiian
6 Memorial Park. My family is there. That's where I
7 belong.

8 I don't want to be cremated. I don't like
9 heat. I don't want to be scattered because I don't
10 like water. I want to be buried with my family.

11 You know, my daughter asked me a bit ago,
12 she asked me, dad -- she lives in Kaneohe too -- she
13 asked me, dad, what is going to happen to us? Am I
14 going to be buried with you and mom and grams and
15 uncle and where are we going to go? I couldn't
16 answer that. Couldn't.

17 Because you guys make the decision for us.
18 I'm in favor of the expansion of Hawaiian Memorial
19 Park for existing and future generations to come, and
20 have a place to remember. Thank you.

21 CHAIRPERSON SCHEUER: Mahalo.

22 Are there questions for the testifier?

23 MR. TABATA: No questions.

24 MR. PANG: No questions.

25 MS. APUNA: No questions.

1 MR. YOSHIMORI: No questions.

2 CHAIRPERSON SCHEUER: Our next testifier is
3 Jarrae Fautanu, followed by Christian West.

4 Do you swear or affirm the testimony you're
5 about to give is the truth?

6 THE WITNESS: Yes.

7 CHAIRPERSON SCHEUER: Please state your
8 name and address for the record and then proceed.

9 THE WITNESS: My name is Jarrae Fautanu,
10 and my address is 1470 Ahunui Street, Honolulu,
11 Hawai'i.

12 JARRAE FAUTANU

13 Was called as a witness by and on behalf of the
14 Public, was sworn to tell the truth, was examined and
15 testified as follows:

16 DIRECT EXAMINATION

17 THE WITNESS: I have many relatives who are
18 buried at HMP Cemetery, and my father who was buried
19 on Veterans Day. And when it's time for my mom, she
20 will be buried with him. When it's my time, I won't
21 have that option to be buried with my parents,
22 neither will my siblings or my children. Our only
23 option is Hawaiian Memorial Park Cemetery.

24 In order to be close to my parents, HMP is
25 the only place that we would want to be. Growing up,

1 that is part of our family values. So in life as we
2 are together, we want to be in that.

3 This expansion doesn't only allow my family
4 to still be close, but for also my children and the
5 generations after to follow to have opportunities to
6 know their heritage with the conservation on the
7 cultural preserve.

8 Sorry.

9 CHAIRPERSON SCHEUER: That's okay. We
10 haven't lost anybody yet.

11 THE WITNESS: My choice is to be buried not
12 only because of my family values and upbringing, but
13 also because of our Catholic belief. I do not choose
14 on cremation, because it's just how I was raised and
15 the beliefs that were instilled.

16 Keeping my family close is one of the
17 reasons why we are in the process of moving my
18 grandmother, who is currently buried at Sunset
19 Memorial Park, to Hawaiian Memorial Park Cemetery
20 over 30 years ago. It could have been a happy place,
21 but it is sad and depressive.

22 Visiting our family, relatives at the
23 cemetery on every holiday and birthday and sometimes
24 (indecipherable) -- helps us to remember them. Also
25 for our children who were either too young or weren't

1 born yet to know that they still loved them.

2 It kind of gives us the opportunity to
3 reminisce about how things would be if they were
4 here. It instilled our family values.

5 I did have a niece who was cremated and
6 scattered at sea, which has left a hole in my
7 families' heart. She was cremated without my brother
8 or our families' knowledge, and against our family
9 values and religious beliefs of being Catholic.

10 I can't visit her. My children and her
11 younger siblings does not know who she is because we
12 can't sit there, take her flowers or try and talk,
13 let them know of this.

14 CHAIRPERSON SCHEUER: If I can ask you to
15 summarize, please.

16 THE WITNESS: Part of the expansion with
17 the cultural preserves gives my children and our next
18 generation the opportunity to learn who we are as
19 Hawaiians, and of the rich culture that is a slowly
20 dying culture unfortunately.

21 I remember as a child it was part of our
22 school. We would have kupuna that came in, but we
23 don't have that opportunity any more. My children
24 doesn't. So with this expansion, it doesn't only
25 allow for our families to be together in death as we

1 are in life, but it also provides an educational
2 experience for our children.

3 CHAIRPERSON SCHEUER: Thank you very much.

4 Are there questions for the testifier?

5 MR. TABATA: No questions.

6 MR. PANG: No questions.

7 MS. APUNA: No questions.

8 MR. YOSHIMORI: No questions.

9 CHAIRPERSON SCHEUER: Commissioners?
10 Mahalo.

11 Our next testifier is Christian West,
12 followed by Merlie Narciso Wilmeth.

13 Aloha. Do you swear or affirm that the
14 testimony that you're about to give is the truth?

15 THE WITNESS: I do.

16 CHAIRPERSON SCHEUER: We will get there by
17 the end.

18 CHRISTIAN WEST

19 Was called as a witness by and on behalf of the
20 Public, was sworn to tell the truth, was examined and
21 testified as follows:

22 DIRECT EXAMINATION

23 THE WITNESS: Christian West, 3207
24 Catherine Street, Honolulu, Hawai'i 96815.

25 Aloha, good morning, Commissioners. I

1 appreciate your guys giving me the opportunity to sit
2 here today and to testify in support of Hawaiian
3 Memorial Park.

4 My name is Christian West. Obviously, I'm
5 here today as a representative of the International
6 Longshoreman Warehouse Union.

7 The members and the workers and staff at
8 Hawaiian Memorial Park are members of our union, and
9 a very important part of our union.

10 They supply -- on a personal level, both my
11 maternal grandparents are buried there as well as my
12 paternal grandmother.

13 Since their passing until today I've always
14 appreciated the efforts of our members of ILWU who
15 make up the staff as groundskeepers. Their pride in
16 their work and attention to detail is evident with
17 every visit of my grandparents. For that I'm
18 extremely grateful.

19 I'm also grateful for the administrative
20 staff that works closely with the union to adhere to
21 their contractual obligations and also their
22 willingness to provide our workers with livable wages
23 and favorable work environment, something that
24 continues to disappear today.

25 Their desire to be partners in the

1 betterment of our members is again evident in their
2 willingness to be fair.

3 But I'm not only here as an officer of the
4 ILWU, I'm a born and raised kanaka of these islands.

5 I could not stand here today in support of
6 this proposed expansion if I did not see the
7 responsible steps taken by Hawaiian Memorial Park.
8 Their concerns for my cultural rights as a Hawaiian
9 is important to me. Their desire to partner with the
10 Hawaiian community and the community of Kaneohe is
11 another reason I believe in this expansion.

12 I ask again for the Commission's support of
13 this proposed expansion of the Hawaiian Memorial
14 Park.

15 CHAIRPERSON SCHEUER: Mahalo. Are there
16 questions for the testifiers?

17 MR. TABATA: No questions.

18 MR. PANG: No questions.

19 MS. APUNA: No questions.

20 MR. YOSHIMORI: No questions.

21 CHAIRPERSON SCHEUER: Commissioners?

22 Our next testifier is Merlie Narciso
23 Wilmeth, followed by Alicia Maluafiti.

24 Aloha, good morning.

25 Do you swear or affirm the testimony you're

1 about to give is the truth?

2 THE WITNESS: Yes, I do.

3 My name is Merlie Narciso Wilmeth. I live
4 at 92-2044 Kulihi Street, Kapolei, Honolulu, Hawai'i
5 96707.

6 MERLIE NARCISO WILMETH

7 Was called as a witness by and on behalf of the
8 Public, was sworn to tell the truth, was examined and
9 testified as follows:

10 DIRECT EXAMINATION

11 THE WITNESS: My name is Merlie Narciso
12 Wilmeth, born and raised from beautiful island in the
13 Philippines. I moved to Hawai'i 34 years ago and now
14 live in Makakilo.

15 I am a family service counselor for
16 Hawaiian Memorial Park Cemetery for the last 23
17 years. My family is in full support for the
18 extension project of Hawaiian Memorial Park Cemetery.

19 I've been an employee. I meet hundreds and
20 hundreds of families who come to the cemetery.

21 Families who come to visit their loved ones.

22 Families who come to make arrangement for funeral
23 burial services. Families come to preplan their own
24 services and memorial, and to secure places for the
25 future use.

1 There is nothing more I love to do than
2 helping this family who have one thing in common, the
3 love of being together as a family.

4 Families grieve in different ways. There
5 are those who come to the cemetery every day for the
6 first couple years following the death of their loved
7 ones.

8 I see family come once a day, once a week,
9 twice or three times a week. Some people travel far.
10 For example, I have the regulars. Mrs. Buckster from
11 Kunia. She is in her early 80s. I have this
12 gentleman from Wahiawa. We call him Mr. Pineapple
13 man. He is in his mid 80s. I have Mrs. Lee from
14 Waianae and she is in her late 70s.

15 All of them do not drive. They come to the
16 cemetery every time they have a chance. They don't
17 have -- they're in their 80s, and they don't have to
18 depend on someone to drive them to bring them to
19 visit their loved ones.

20 HMP is bus accessible. So it gives
21 convenience for everybody from all areas of Honolulu.

22 Hawaiian Memorial Park Cemetery is 62 years
23 old and we are running out of spaces. There's very
24 limited available spaces left. And it's those
25 available that are scattered throughout the park.

1 This makes it harder for the family to be in one
2 garden.

3 I recently heard that someone suggested
4 that we should put 20 --

5 CHAIRPERSON SCHEUER: Three minutes. If I
6 can ask you to summarize your testimony.

7 THE WITNESS: We live in a growing
8 population, and it's time that we must work together
9 to have this expansion project of HMP Cemetery get
10 started. We have to act now in order to meet the
11 increasing demands for the future generation.

12 With all that being said, I respectfully
13 and humbly ask that the extension project for
14 Hawaiian Memorial Park be granted. Thank you.

15 MR. TABATA: No questions.

16 MR. PANG: No questions.

17 MS. APUNA: No questions.

18 MR. YOSHIMORI: No questions.

19 CHAIRPERSON SCHEUER: Commissioners?

20 Thank you very much.

21 Next is Ms. Maluafiti followed by Reverend
22 Samuel Cox.

23 Do you swear or affirm the testimony you're
24 about to give is the truth?

25 THE WITNESS: I do. I talk loud so I'm

1 going to step back.

2 Alicia Maluafiti, 91-302 Ewa Beach Road,
3 Ewa Beach.

4 ALICIA MALUAFITI

5 Was called as a witness by and on behalf of the
6 Public, was sworn to tell the truth, was examined and
7 testified as follows:

8 DIRECT EXAMINATION

9 THE WITNESS: Good morning. I am -- like
10 many of the local families here, we have all our
11 family buried read at Hawaiian Memorial. We have
12 five generations in my family. My great grandfather,
13 David Mahukona, the first solo bike officer killed in
14 the line of duty was first to be buried there. He
15 died in 1923.

16 My grandmother Hazel Mahukona Chan from
17 Papakolea. I've got all my dad's brothers are buried
18 there. My cousins and my second cousins, my
19 grandmother's sisters are buried there. This is
20 really the burying place for our family, like most
21 local families. Why? Because we all now live on the
22 west side, West Oahu. You know what we don't have in
23 West Oahu? We don't have cemeteries. You can't even
24 go down to bury our family, you hit coral just a foot
25 down when you're in Ewa Beach.

1 So we are not building any new cemeteries
2 on the west side. Instead, what we get, all the
3 houses. So even though we bury our family over here,
4 the only affordable housing on the island is where?
5 On the west side, where now we also have Rail, HECO,
6 power plants. Where we have every -- coal power
7 plant. We have the dump. Everything you can imagine
8 on this island is on the west side.

9 I don't think it's too much to ask to let
10 us bury our family on the Windward side. It's so
11 beautiful over here, everything is green. And guess
12 what? You've got soft ground, so it's easy to bury
13 their families.

14 So I think at a minimum, an expansion of
15 this cemetery, it's going to accommodate future
16 generations because we got nowhere else to go.

17 The one other thing I wanted to mention
18 about how much I care about Hawaiian Memorial Park
19 is, I actually run a very small nonprofit called "Poi
20 Dogs & PoPoki, and we have a mobile spade-neuter
21 clinic. This cemetery, for nothing, they allow us to
22 come in once a month to host these spade-neuter
23 clinics for the Windward side of Oahu.

24 We have sterilized almost 3,000 cats and
25 dogs in the last six years. They ask for nothing in

1 return, but as a community service and the ability to
2 service this community, they allow us to come in.

3 And we actually do trap, neuter and return
4 feral cats on the property. I mean, all over this
5 island we go, and this is the one spot on Windward
6 side that has been very generous and open to an
7 organization, nonprofit, such as ours.

8 We're very appreciative of them. My family
9 will continue to come here and to bury our family
10 here if you allow the expansion, and I hope in the
11 future, the next ten years, they allow Poi Dogs &
12 PoPoki to come back and return and support the rest
13 of the families on this island along with your
14 family.

15 CHAIRPERSON SCHEUER: Thank you for your
16 testimony.

17 MR. TABATA: No questions.

18 MR. PANG: No questions.

19 MS. APUNA: No questions.

20 MR. YOSHIMORI: No questions.

21 COMMISSIONER CHANG: If you had a cemetery
22 on the West side, would you prefer to have your
23 burial on the West side or prefer to be buried at
24 HMP?

25 THE WITNESS: We are going to bury our

1 family together, so we are still going to come to
2 Hawaiian Memorial. I think at some point in time the
3 next generations may choose, as the rest of the
4 families and children and grandchildren, there's no
5 more places left, they'll probably pick a new place.
6 But for now, my generation, my cousins, we want to be
7 with the rest of our family.

8 My dad has dementia. He's almost 80 years
9 old. We come four times a year. We load up the
10 flowers and we put on all the grave sites.

11 So maybe in a couple generations we would
12 love a cemetery on the West side, but we're not going
13 to get it. Too many houses. Too many people need
14 places to live. You, the LUC, have designated our
15 side of the island for housing. We will give you all
16 the affordable housing you want, just bury our people
17 over here.

18 CHAIRPERSON SCHEUER: Thank you.

19 Are there further questions?

20 Next is Reverend Samuel Cox, followed by
21 Mahealani Cypher, and at that point we will take a
22 ten minute break after Ms. Cypher.

23 Do you swear or affirm the testimony you're
24 about to give is the truth?

25 THE WITNESS: Yes.

1 I am a retired --

2 CHAIRPERSON SCHEUER: State your name and
3 address for the record and then proceed.

4 REVEREND SAMUEL COX

5 Was called as a witness by and on behalf of the
6 Public, was sworn to tell the truth, was examined and
7 testified as follows:

8 DIRECT EXAMINATION

9 THE WITNESS: Name is Reverend Samuel
10 Cox. I'm a resident of Pohai Nani retirement
11 community. I'm a retired Methodist pastor and a
12 resident of Pohai Nani.

13 On behalf of our resident association and
14 as the past president, I wish to speak in opposition
15 to the proposed Hawaiian Memorial Park expansion on
16 the conservation land, which is also adjacent to
17 Pohai Nani.

18 The biggest argument against this project
19 is it's taking away our conservation land. This land
20 is our heritage, our birth right to our children,
21 grandchildren and great grandchildren.

22 It's also a protection of our endangered
23 species. Once diminished, this land can never be
24 replaced. It's gone forever. However, this is only
25 a short quick fix. In a few years they will be back

1 again to expand their cemetery. This cannot go on
2 forever.

3 I realize we must honor and care for our
4 loved ones. I've heard testimony to this effect.
5 I've also personally conducted a number of memorials,
6 but we cannot go on forever expanding our cemeteries
7 on scarce land, especially, when exorbitant profits
8 go to the mainland.

9 I see they're already advertising for
10 single graves. I would like to suggest that Hawai'i,
11 like Japan, begin to think of more cost effective
12 ways of honoring or loved ones when they pass away.

13 By law in Japan everyone who dies is
14 cremated. Many years ago I served as a social worker
15 missionary in Japan. Sadly, during this time my
16 middle son died of leukemia. He is buried today with
17 more than 50 other missionaries in a small crypt in
18 Tokyo. The cost was negligible.

19 My first wife died in 2012 after a few
20 months at St. Francis Hospital. She chose to donate
21 her body to Hawai'i Medical School for research and
22 training. I recall how delighted she was to find out
23 that the medical school also provided free cremation
24 for the remains. They even paid for the obituary.
25 Afterward a beautiful memorial service was held

1 together with many other donators and the ashes
2 scattered off Magic Island.

3 CHAIRPERSON SCHEUER: If I can ask you to
4 summarize, please.

5 THE WITNESS: Yes. That's the end. This
6 is how I spend my own end, and urging my friends to
7 do the same.

8 CHAIRPERSON SCHEUER: Thank you for your
9 testimony. Questions for the testifier?

10 MR. TABATA: No questions.

11 MR. PANG: No questions.

12 MS. APUNA: No questions

13 MR. YOSHIMORI: No questions.

14 CHAIRPERSON SCHEUER: Commissioners?

15 Thank you, Reverend Cox.

16 Our next testifier before the break will be
17 Mahealani Cypher.

18 Aloha, good morning.

19 Do you swear or affirm that the testimony
20 you're about to give is the truth?

21 THE WITNESS: I do.

22 MAHEALANI CYPHER

23 Was called as a witness by and on behalf of the
24 Public, was sworn to tell the truth, was examined and
25 testified as follows:

DIRECT EXAMINATION

1
2 THE WITNESS: My name is Mahealani Cypher
3 representing the Ko'olau Foundation. The address for
4 the Foundation is 46-005 Kawa Street, Kaneohe.

5 My name is Mahealani Cypher, and I speak
6 today on behalf of the Ko'olau Foundation, a native
7 Hawaiian nonprofit whose primary mission is to
8 advocate for the preservation and restoration of wahi
9 kapu -- Hawaiian sacred sites -- and wahi pana,
10 legendary places throughout the Hawaiian islands.

11 We are in strong support of this
12 application and urge you to approve this initiative
13 that will provide additional burial spaces at the
14 Kane'ohe cemetery, but will also establish a cultural
15 preserve around Kawa'ewa'e Heiau.

16 I was born and raised in Kane'ohe, and have
17 lived here for most of my 73 years. My family
18 members are buried at the Hawaiian Memorial Cemetery.
19 I regularly visit their graves to take them flowers
20 and honor their memory out of aloha for my kupuna.

21 For most of my adult life I have been an
22 advocate for preservation of places of antiquity,
23 preserving the history and heritage of our people.
24 Since 1973 I have monitored research and findings
25 about wahi kapu and wahi pana, and have visited many

1 of them throughout the islands.

2 Today, most of my work involves efforts to
3 malama Kanehekili Heiau in Haiku Valley. I had also
4 previously urged the preservation of Kukuiokane Heiau
5 which, unfortunately, was bifurcated by the H-3
6 freeway.

7 In 2019 I was thrilled and honored to
8 receive the Frank Haines Lifetime Achievement Award
9 from the Historic Hawaii Foundation. It amazed me
10 that -- even though I had encountered many obstacles
11 in my pathway toward preserving and restoring
12 historic sites -- this prestigious historic
13 organization had bestowed such a recognition upon me.

14 In ahupua'a Kane'ohe there were many heiau
15 centuries ago. One of the most important heiau was
16 Kawa'ewa'e, from which our kupuna of old would have
17 an excellent vantage point to see incoming canoes
18 arriving in Kane'ohe Bay, or visitors coming down the
19 Pali trail from Nu'uano.

20 As part of a cultural awareness program, I
21 took a number of groups to visit the heiau so they
22 could learn of the unique features of this wahi kapu.
23 I remember working with members of Queen Emma
24 Hawaiian Civic Club many years ago, as they were the
25 first club to care for the site.

1 I remember also a time when Charlie Ogata
2 rediscovered the site and would clear the area with
3 other volunteers. I remember going there to help
4 when former Councilmember Steve Holmes would gather
5 others from the community to clear the heiau.

6 Some years ago I was invited by
7 archaeologists working for HMP to accompany them on a
8 site visit of the Kawa'ewa'e Heiau Complex. I recall
9 walking the area with Donnie Camvel, both of us
10 noting characteristics that we felt were important
11 but not recognized by the archaeologists, and
12 shrugging at something they determined was important
13 due to the finding of midden.

14 I actually recall commenting on those
15 things in the cultural report collected by the firm.

16 Today, however, I feel reassured that the
17 landowners of that wahi kapu have resolved to provide
18 perpetual preservation for this area through
19 establishment of the cultural preserve --

20 CHAIRPERSON SCHEUER: Three minutes.

21 THE WITNESS: We commend Hawaiian Memorial
22 Park for taking this initiative, something we had not
23 asked, expected, nor asked for, but it is a major
24 commitment toward the preservation of our cultural
25 resources.

1 They have done additional archaeological
2 studies of the area. They have resolved to place
3 special protections on a native species found in the
4 area, and they have committed to assisting a
5 stewardship program and entity to ensure long-term
6 management and protection of this wahi kapu.

7 We urge you, as Members of the Hawai'i
8 Land Use Commission, to approve their application to
9 allow for the expansion of the cemetery and
10 establishment of a heiau cultural preserve.

11 Mahalo for allowing me to present the
12 mana'o of the Ko'olau Foundation, and my personal
13 experience dealing with this company over the past
14 ten years.

15 MR. TABATA: No questions.

16 MR. PANG: No questions.

17 MS. APUNA: No questions.

18 MR. YOSHIMORI: No questions.

19 CHAIRPERSON SCHEUER: Commissioners?
20 Commissioner Chang.

21 COMMISSIONER CHANG: Thank you for your
22 testimony.

23 Is the Ko'olau Foundation entering into a
24 stewardship agreement with HMP to care for the heiau?

25 THE WITNESS: No. We are not involved in a

1 stewardship arrangement with the park.

2 COMMISSIONER CHANG: Thank you.

3 CHAIRPERSON SCHEUER: It is exactly
4 10:00 a.m. We will reconvene at 10:10 a.m. exactly.
5 The first two testifiers after the break are Leimana
6 DaMate followed by Millanie Akaka.

7 (Recess taken.)

8 CHAIRPERSON SCHEUER: We are back on the
9 record.

10 Our next testifier is Leimana DaMate.

11 Do you swear or affirm the testimony you're
12 about to give is the truth?

13 THE WITNESS: Yes.

14 Aloha, my name is Leimana DaMate. And my
15 address is Kalanimoku Building, Suite 130, 1151
16 Punchbowl Street, Honolulu 96813.

17 LEIMANA DaMATE

18 Was called as a witness by and on behalf of the
19 Public, was sworn to tell the truth, was examined and
20 testified as follows:

21 DIRECT EXAMINATION

22 THE WITNESS: Aloha. Esteemed members of
23 the LUC.

24 On behalf of the Aha Moku Advisory
25 Committee, Mokupuni, Island, of Kahuhihewa, Oahu, and

1 the Moku of Ko'olaupoko, which encompasses the
2 Ahupua'a of --

3 CHAIRPERSON SCHEUER: Sorry, one moment.
4 (Gavel heard.)

5 We need it quiet in here. This is actually
6 a legal proceeding. We take transcripts. If the
7 record is unclear because of talking in the room, we
8 jeopardize the entire proceeding.

9 Please proceed.

10 THE WITNESS: -- He'eia, Kaneohe, Kailua,
11 Mokapu, Waimanalo, Kahaluu, Waihe'e, Kaalea,
12 Waiahole, Waikane, Hakipuu, and Kualoa, we offer
13 testimony in strong support of Agenda item IV, the
14 Petition before you.

15 The Hawai'i State Aha Moku is the direct
16 result of Ka Pa'akai O Ka 'Aina vs. The Land Use
17 Commission, Supreme Court of the State of Hawaii
18 2000. Its focus then, is the same focus now -- "To
19 develop appropriate lands within the area in a manner
20 that is compatible with an open space character and
21 sensitive to the sustained use of neighboring areas
22 for traditional cultural practices." (No. 2-Findings
23 of Fact) "to preserve and manage sustainable
24 resources within the area to ensure their
25 availability to future generations." (No. 3-Findings

1 of Fact) and "To protect fragile and sensitive areas
2 and sustainable resources from overuse degradation."
3 (No. 5-Findings of Fact).

4 We strongly support the recommendations of
5 Trisha Kehaulani Watson, CEO of Honua Consulting,
6 that 156 acres could be designated as a Conservation
7 Easement where no development can ever occur but only
8 the restoration of the landscape into a native
9 forest. This would protect the Kawa'ewa'e Heiau
10 complex that can be restored for Hawaiian cultural
11 practices.

12 We are a part of Ko'olaupoko and support
13 the Ko'olaupoko Hawaiian Civic Club who are now the
14 cultural curators of Kawa'ewa'e Heiau.

15 The Hawaii State Aha Moku, coming out of
16 the Ka Pa'akai Hawaii Supreme Court case was formed
17 by over 200 expert cultural practitioners, kupunas
18 and generational descendants of the Hawaiian culture
19 specifically to support the efforts of the people in
20 the moku of the Pae'aina of Hawaii. The president of
21 the Ko'olaupoko Hawaiian Civic Club, Kupuna Rocky
22 Kaluhiwa and her late husband, Jerry Kaluhiwa, were
23 two of the authors of the Hawaii State Aha Moku bill,
24 Act 88, Session Law Hawaii 2012.

25 We support this Petition and urge this

1 Commission to support it. Thank you.

2 CHAIRPERSON SCHEUER: Right on the dot.

3 Are there any questions?

4 MR. TABATA: No questions.

5 MR. PANG: No questions.

6 MS. APUNA: No questions.

7 MR. YOSHIMORI: No questions.

8 CHAIRPERSON SCHEUER: Commissioners?

9 Commissioner Wong.

10 COMMISSIONER WONG: Just one question. I
11 heard you're in support.

12 THE WITNESS: Yes.

13 COMMISSIONER WONG: And that's for this
14 docket?

15 THE WITNESS: Yes.

16 COMMISSIONER WONG: And that your
17 organization agrees how they're going to protect the
18 heiau and the other portions?

19 THE WITNESS: Yes.

20 COMMISSIONER WONG: Did you ever go into
21 any other issues, or just your specific issues?

22 THE WITNESS: For this particular issue?
23 Yes, we support this --

24 COMMISSIONER WONG: Did you ever go into
25 the environmental side or just about the Hawaiian

1 cultural --

2 THE WITNESS: The cultural site is attached
3 to the environmental side, so we address all of those
4 things.

5 COMMISSIONER WONG: Thank you.

6 THE WITNESS: You're welcome.

7 CHAIRPERSON SCHEUER: Commissioners, other
8 questions? Commissioner Okuda.

9 COMMISSIONER OKUDA: Thank you very much
10 for your testimony.

11 Would you agree or disagree -- would you
12 agree that if there is no boundary designation
13 change -- in other words, the property is left in
14 conservation -- that that designation would also
15 continue to prohibit development of the subject
16 parcel?

17 THE WITNESS: That's a complicated
18 question. It deals with legalities of things. What
19 we support is that one, a Conservation Easement be
20 included in this, and I think it is.

21 And two, we support the people whose wishes
22 to expand the cemetery so that those natural cultural
23 resources would be protected.

24 COMMISSIONER OKUDA: But do you disagree --
25 you disagree that if the parcel was kept designated

1 as conservation, that no development could take
2 place?

3 THE WITNESS: I would have to check with
4 the people of the place first to answer that
5 question. Right now, we're supporting the Petition
6 that's on the docket.

7 COMMISSIONER OKUDA: Are you aware that the
8 engineering report indicates that there may be
9 significant rockfall issues within the subject
10 parcel?

11 THE WITNESS: I have not read the
12 engineering report.

13 COMMISSIONER OKUDA: Has your group
14 considered whether or not the amount of land or dirt
15 that's going to be projected to be excavated may
16 create runoff issues into Kaneohe Bay?

17 THE WITNESS: People did talk about some of
18 those issues, and I could not believe that it would
19 be a significant to the support of this docket.

20 COMMISSIONER OKUDA: Can you point to what
21 piece of evidence or report that indicates -- based
22 on your recollection or based on what your group
23 considered -- which indicated there would not be
24 significant runoff into Kaneohe Bay?

25 THE WITNESS: The reason for our testimony

1 was to bring to light the fact that the Aha Moku is
2 comprised of the Koolaupoko moku, and in that
3 respect, how the Land Use Commission -- it impacts
4 the people of that place. So I referred directly
5 back to the Ka Pa'akai case of which I was the main
6 plaintiff, and that's why I focused on the three main
7 Findings of Fact of that case, that we believe is
8 relevant to the Land Use decision today.

9 COMMISSIONER OKUDA: And thank you for
10 being the party to Ka Pa'akai, because for me
11 personally, I believe that was a very important case.
12 And we take our duties and obligations seriously.

13 May I ask you this. Did you consider or
14 did your group consider, in coming to your
15 recommendation of support, the impact of whether or
16 not there would be at least certain cultural sites
17 which would be negatively impacted by the proposed
18 expansion?

19 THE WITNESS: No. And that is because we
20 do not believe that any other cultural sites would be
21 severely impacted.

22 COMMISSIONER OKUDA: Would you agree that
23 there are some cultural sites that will be impacted?

24 THE WITNESS: It would depend on which
25 sites you're talking about.

1 COMMISSIONER OKUDA: But some sites would
2 be impacted?

3 THE WITNESS: I can't answer that, because
4 I'm not sure what the people's respective responses
5 to each specific cultural site would be on that part
6 of your question.

7 COMMISSIONER OKUDA: Thank you very much.
8 Thank you, Chair.

9 CHAIRPERSON SCHEUER: Are there other
10 questions for the witness? Commissioner Chang.

11 COMMISSIONER CHANG: Good morning. Thank
12 you for your testimony.

13 I would just like to clarify. You are here
14 testifying on behalf of Aha Moku Council. Is it fair
15 to say that you went back to the Aha Moku
16 representatives from this particular area to get
17 their mana'o on this particular matter?

18 THE WITNESS: That is correct.

19 COMMISSIONER CHANG: Do those Aha Moku
20 representatives represent families who may have
21 ancestral connection to these lands?

22 THE WITNESS: Yes, they do.

23 COMMISSIONER CHANG: Is it the Aha Moku's
24 counsel, your testimony in support of this, is it
25 your testimony that the cultural preserve will

1 preserve and protect traditional customary practices
2 exercised by native Hawaiians?

3 THE WITNESS: Yes. Specifically for this
4 area.

5 COMMISSIONER CHANG: Did the families or
6 Aha Moku's representatives share what some of those
7 practices may be?

8 THE WITNESS: I did not ask specifically
9 what the practices are, because those practices are
10 held secret by the families of the area. That's
11 generational knowledge that would be shared publicly
12 by the families themselves.

13 COMMISSIONER CHANG: Thank you very much.

14 CHAIRPERSON SCHEUER: Are there other
15 questions?

16 Who are the current members of the Aha
17 Moku?

18 THE WITNESS: For Oahu?

19 CHAIRPERSON SCHEUER: Your letterhead
20 states you're speaking on behalf of the entire state
21 advisory committee.

22 THE WITNESS: It also states that this is
23 specifically from the Aha Moku Advisory Council
24 member who is the poho for Oahu. And then there's
25 Rocky Kaluhiwa.

1 CHAIRPERSON SCHEUER: Who are the members
2 of the Hawai'i state Aha Moku Advisory Committee.

3 THE WITNESS: Going island to island,
4 Hawai'i Island is Pi'iloa Kaawaloa. Maui right now
5 is vacant as it's awaiting confirmation by Governor
6 Ige, and has to go through Senate confirmation.

7 Kaho'olawe is Leslie Kuloloio. Lana'i
8 right now is Winifred Basques. Oahu is Rocky
9 Kaluhiwa. Kaua'i right now is Mr. Llewellyn
10 Kaohelauwii (phonetic), and Niihau is Keith Robinson.
11 I don't think I missed an island.

12 CHAIRPERSON SCHEUER: So when you write
13 testimony, does that committee review your testimony?

14 THE WITNESS: The island does, yes, that
15 I'm speaking on behalf of.

16 CHAIRPERSON SCHEUER: So one individual?

17 THE WITNESS: A whole entire moku. The
18 process of the Aha Moku is not like -- it's a very
19 unique process, not like other boards and
20 commissions. So the other island would never speak
21 on be of half of a specific island. So in this case,
22 the AMAT representative and Poho for Oahu is Rocky
23 Kaluhiwa. She speaks for Oahu specifically for the
24 Moku of Ko'olaupoko.

25 CHAIRPERSON SCHEUER: You have spoken with

1 one individual?

2 THE WITNESS: I spoke with families.

3 CHAIRPERSON SCHEUER: Can you name them?

4 THE WITNESS: No, because I did not get
5 permission to put them in my testimony or I would
6 have. However, I would be happy -- if you would me
7 to -- you've got Rocky later if you need to speak --
8 there are many of them, not only just one.

9 CHAIRPERSON SCHEUER: I'm just trying to
10 understand for the record what the basis is for your
11 testimony.

12 THE WITNESS: That's the basis.

13 CHAIRPERSON SCHEUER: Are there further
14 questions for Ms. DaMate?

15 The next two testifiers are Millanie Akaka,
16 followed by Neil Abercrombie.

17 Do you swear or affirm the testimony you're
18 about to give is the truth?

19 THE WITNESS: I do.

20 MILLANIE AKAKA

21 Was called as a witness by and on behalf of the
22 Public, was sworn to tell the truth, was examined and
23 testified as follows:

24 DIRECT EXAMINATION

25 THE WITNESS: Aloha, Commissioners. My

1 name is Millanie Akaka and I am testifying in support
2 of the proposed expansion of Hawaiian Memorial Park.

3 My family has long been interested in
4 Hawaiian Memorial Park as a final resting place
5 because we are looking at options other than private
6 cemetery. My father's immediate family and
7 generations of other family members are buried in the
8 family cemetery in Pahoia, but continued maintenance
9 was an issue.

10 Ongoing cemetery maintenance was extremely
11 important to us, and HMP is a cemetery that ensures
12 maintenance in perpetuity forever, "perpetuity" and
13 "forever", important words to keep what we have.

14 When we found out about HMP development
15 project, we were excited. Change is inevitable, and
16 not always welcomed, but the plan was different. The
17 plan will develop 28.2 acres of the 156-acre parcel
18 next to their developed area. The remaining
19 127.8 acres would be preserved as a Conservation
20 Easement to ensure no further development ever on the
21 property.

22 Drainage improvements, the destructive
23 effects of heavy rains, to continue saving that land,
24 and 14.5 acres of those 127.8 acres would be
25 designated as a cultural preserve maintained and

1 preserved by native Hawaiians.

2 We, my family, we are native Hawaiians.
3 The project is a gift to us that will keep us -- you
4 know, help keep our culture alive. Our culture and
5 our history are things that Hawaiians, native
6 Hawaiians at issues for today, and we are native
7 Hawaiians.

8 This project is a gift to us. My mother,
9 Millie Akaka is here with me today in support of this
10 project. My father Daniel Akaka supported this
11 project. It was happening at a time when he was
12 still alive, including the fact that the Veterans'
13 location at that time when Punchbowl was having
14 problems, they were going to close down, he was in
15 charge of the Veteran's Committee, so he was happy
16 when the State was given that property to further
17 honor our vets.

18 So today I want to thank you for this
19 opportunity to speak and to let you know that we do
20 support this project, and we hope you too will
21 approve it.

22 Thank you very much for this opportunity.

23 CHAIRPERSON SCHEUER: Mahalo, Ms. Akaka.

24 Questions for testifier?

25 MR. TABATA: No questions.

1 MR. PANG: No questions.

2 MS. APUNA: No questions.

3 MR. YOSHIMORI: No questions.

4 CHAIRPERSON SCHEUER: Commissioners? Thank
5 you very much.

6 Our next witness is Governor Neil
7 Abercrombie followed by Dorothy Sakamoto.

8 I do it to everybody.

9 Do you swear or affirm that the testimony
10 you're about to give is the truth?

11 THE WITNESS: Yes.

12 CHAIRPERSON SCHEUER: Please proceed.

13 THE WITNESS: Thank you very much.

14 NEIL ABERCROMBIE

15 Was called as a witness by and on behalf of the
16 Public, was sworn to tell the truth, was examined and
17 testified as follows:

18 DIRECT EXAMINATION

19 THE WITNESS: I'm Neil Abercrombie, 2139
20 Haena Drive, H-a-e-n-a, Drive, 96822.

21 Mr. Chairman and Commission Members and
22 ladies and gentlemen. I'm here today because this
23 represents, I hope, the culmination of interest that
24 I've had in this project, if you will, that goes on
25 for almost half a century. Literally in the last

1 century.

2 I first became aware of it as a legislator,
3 then as a member of congress and then as governor.
4 That's how long this has gone on.

5 This particular manifestation of the many
6 plans that have been associated with the Memorial
7 Park is by far the best. I think it has evolved as a
8 result of community input and interest over the years
9 to what is before you now.

10 Because you have literally reams of
11 testimony, and probably a long association with it, I
12 would like to limit my remarks then to just a couple
13 of areas.

14 I think that it would serve everyone's
15 purpose if we concentrated less on the word
16 "expansion" as such, and more on the Conservation
17 Easement. That's why I find this so attractive.

18 One of the ways we are able to actually
19 succeed, and the natural resources committee and the
20 United States Congress with the very contentious
21 issues that were revolved around land, and
22 conservation, environmental issues, and so on, of
23 which this is an example, which was through the
24 Conservation Easement.

25 What happens generally with that, and what

1 happened here is -- this gets approved -- is that you
2 would be able to preserve the conservation land
3 permanently. Conservation Easement does that. The
4 expansion is something that Senator Akaka and our
5 delegation at that time had to make. Patsy Mink and
6 Dan Inouye and myself were very much in favor of this
7 because this was kind of the idea right from the very
8 beginning.

9 Issues around preservation, conservation
10 and environment were not as pertinent in the '60s,
11 '70s as they became, rightly so. I would like to
12 indicate then that where there are environmental
13 issues and endangered species issues, conservation
14 issues aids and abets that process to see that
15 environmental and endangered species issues are
16 properly addressed.

17 Last thing I wanted to emphasize on that
18 part is the idea of this plan and buffer zones. I
19 think that it's perfectly understandable that
20 neighbors in the immediate area would have concerns,
21 but I think the way this plan has evolved, and with
22 the interest of people like Auntie Alice and Auntie
23 Rocky and everybody associated with native Hawaiian
24 interest, the testimony that just occurred
25 previously, where this is now organized, I think it

1 advantages everybody.

2 Conservation Easement I think is the key to
3 preserving conservation land and accommodating the
4 interests of the expansion.

5 CHAIRPERSON SCHEUER: Thank you.

6 THE WITNESS: I appreciate and thank you
7 for your kind attention and courtesy.

8 CHAIRPERSON SCHEUER: Thank you.

9 Are there questions?

10 MR. TABATA: No questions.

11 MR. PANG: No questions.

12 MS. APUNA: No questions.

13 MR. YOSHIMORI: No questions.

14 THE WITNESS: Gee, I wish I could have had
15 you folks about four or five years ago.

16 CHAIRPERSON SCHEUER: Well, some of us,
17 including myself, are here next to you.

18 (Multiple speakers)

19 THE WITNESS: I have lots of sins to atone
20 for. Thank you very much.

21 CHAIRPERSON SCHEUER: Thank you very much,
22 Governor.

23 Our next testifier Dorothy Sakamoto
24 followed by Justin Soriano.

25 THE WITNESS: Good morning. I am honored

1 to be following our former Governor, Neil
2 Abercrombie.

3 CHAIRPERSON SCHEUER: Do you swear or
4 affirm the testimony you're about to give is the
5 truth?

6 THE WITNESS: I do.

7 DOROTHY SAKAMOTO

8 Was called as a witness by and on behalf of the
9 Public, was sworn to tell the truth, was examined and
10 testified as follows:

11 DIRECT EXAMINATION

12 THE WITNESS: Good morning. My name, for
13 the record, is Dorothy Sakamoto. I reside at 45-663
14 Luluku Road.

15 On behalf -- I am speaking on behalf of the
16 ILWU workers that work for Hawaiian Memorial
17 Mortuary.

18 To begin, I have lived in Kaneohe for over
19 25 years. Many changes has occurred, some good, some
20 very confusing. In regards to the mortuary, they
21 have been serving the Windward side as well as this
22 island for many years. The plans to expand the
23 mortuary would certainly create more jobs as well,
24 and would give our union workers an opportunity to be
25 able to come up from the ranks.

1 I have worked in a union hall ILWU for
2 43 years. Because of the union, I had many
3 opportunities to come up from the ranks to the
4 highest position under the bargaining unit. I would
5 like to see the workers at the mortuary with this
6 expansion to be able to rise up in rank and have the
7 same opportunities I had.

8 In closing, I think I speak for all unions,
9 I would like to see more union houses. We represent
10 unity, solidarity, and an injury to one, is an injury
11 to all.

12 I would like to thank the Commission for
13 giving me this opportunity to present my testimony.

14 CHAIRPERSON SCHEUER: Mahalo.

15 Are there questions for the testifier?

16 MR. TABATA: No questions.

17 MR. PANG: No questions.

18 MS. APUNA: No questions.

19 MR. YOSHIMORI: No.

20 CHAIRPERSON SCHEUER: Commissioners? Thank
21 you very much.

22 Justin Soriano followed by Rocky Kaluhiwa.

23 Do you swear or affirm that the testimony
24 you're about to give is the truth?

25 THE WITNESS: Yes.

1 CHAIRPERSON SCHEUER: Speak right into the
2 microphone.

3 JUSTIN SORIANO

4 Was called as a witness by and on behalf of the
5 Public, was sworn to tell the truth, was examined and
6 testified as follows:

7 DIRECT EXAMINATION

8 THE WITNESS: My name is Justin Soriano. I
9 reside at 45-453 Panini Street, Kaneohe.

10 I'm here for the project. I'm actually the
11 general manager at Hawaiian Memorial Park. I'm not
12 here to testify on that. I'm here to testify about
13 how important it is for your own family.

14 My great grandparents are there. My
15 grandparents is there, uncles, aunties, nieces.

16 I think it's important that we are with
17 them, with my kids and their kids as well. That's
18 all I have.

19 CHAIRPERSON SCHEUER: Thank you very much.

20 Questions for the witness?

21 MR. TABATA: No questions.

22 MR. PANG: No questions.

23 MS. APUNA: No questions.

24 MR. YOSHIMORI: No questions.

25 CHAIRPERSON SCHEUER: Commissioners?

1 Mahalo.

2 Rocky Kaluhiwa followed by Gretchen Gould.

3 Aloha, good morning.

4 THE WITNESS: Aloha mai kakou, Chair,
5 members of the Board, my name is Leialoha Rocky
6 Kaluhiwa, they call me Rocky. And I reside at 46-624
7 Moku Ko'olaupoko He'eia (indecipherable.)

8 CHAIRPERSON SCHEUER: Do you swear or
9 affirm the testimony you're about to give is the
10 truth?

11 THE WITNESS: I do.

12 CHAIRPERSON SCHEUER: Please proceed.

13 LEIALOHA ROCKY KALUHIWA

14 Was called as a witness by and on behalf of the
15 Public, was sworn to tell the truth, was examined and
16 testified as follows:

17 DIRECT EXAMINATION

18 THE WITNESS: First of all, the Ko'olaupoko
19 Hawaiian Civic Club strongly supports your approval
20 of this application for boundary change for Hawaiian
21 Memorial Park Cemetery, which includes establishment
22 of a cultural preserve for Kawa'ewa'e Heiau.

23 Our Hawaiian Civic Club, which was
24 established in 1937, is one of the largest
25 associations of Hawaiian civic clubs nationwide. It

1 is also one of the largest and most active Hawaiian
2 organizations here in Moku Ko'olaupoko.

3 Our members come primarily from nine
4 'ahupua'a around Kaneohe Bay and strive to serve as
5 ki'ai, guardians, wahi pana and wahi kapu throughout
6 the region.

7 We support this application because we have
8 seen first hand how the landowner has worked to
9 address both our concerns and the community concerns
10 regarding potential impact in this expansion plan.

11 I remember when we were first approached
12 about the early plan, our club wasn't too sure about
13 whether we should support it. In fact, my husband
14 and I was ready to fight it.

15 The community was worried about flooding
16 water and the drainage, and the 20-unit subdivision
17 that was in the original plan.

18 Our civic club was concerned about what
19 would happen to Kawa'ewa'e Heiau. Those were chief
20 ohana centuries ago, but we were pleased when we
21 learned the Hawaiian Memorial Park has changed their
22 plans to accommodate the community.

23 They eliminated the 20-unit subdivision
24 near Pohai Nani. We checked the City's Department of
25 Planning and Permitting, and learned that the

1 landowner has indicated plans that would properly
2 address any flooding concerns.

3 Most importantly, at least from a
4 Hawaiian's perspective, we learned that Hawaiian
5 Memorial is contemplating setting aside acres of land
6 for Kawa'ewa'e Cultural Preserve. This Conservation
7 Easement would help preserve the wahi pana, the wahi
8 kapu forever.

9 Hawaiian Memorial has been very respectful
10 to all the parties, but especially towards the
11 Hawaiian Civic Club, the Hawaiian community, we have
12 a lot of Ko'olaupoko is in that club. They even
13 worked with us and neighboring residents to clean up
14 the heiau some years ago.

15 There was an initiative proposed by our
16 members in the hopes that differences could be
17 resolved. The landowner seeks to provide burial
18 plots for the families of Ko'olaupoko, but it has
19 proven to be essential, even for residents from
20 throughout the islands, many of whom travel from afar
21 to visit their family members buried at the cemetery.

22 I would guess most of us in this room did
23 have family members or friends who are laid to rest
24 in Hawaiian Memorial Park. After we pass away, what
25 will happen to our children? our grandchildren? our

1 generations to come?

2 It is clear that that land must be set
3 aside for those families who wish to be buried on
4 land rather than cremated.

5 We have to think ahead while we honor and
6 perpetuate the history and heritage of our culture to
7 the Kawa'ewa'e Cultural Preserve.

8 CHAIRPERSON SCHEUER: Three minutes.

9 THE WITNESS: A year or two ago, the
10 association of Hawaiian Civic Clubs adopted the
11 resolution of support for the expansion plan and
12 establishment of the cultural preserve.

13 There are over 60 Hawaiian civic clubs
14 throughout the island and across the continent.

15 I think that to persuade you how Hawaiians
16 feel about this matter, as a descendent from our
17 konahiki of the ancient times, my family has been
18 here for over 200 years. We object to the relatively
19 newly-formed group that has been fighting the
20 cemetery since the first proposal, and claim it to be
21 the saviors of Kaneohe by circulating petitions and
22 trying to discredit both our organization and the
23 landowner with what's considered to be
24 misrepresentation.

25 In fact, regarding this proposal, we urge

1 you to support it. Mahalo.

2 CHAIRPERSON SCHEUER: Are there questions
3 for the testifier?

4 MR. TABATA: No questions.

5 MR. PANG: No questions.

6 MS. APUNA: No questions.

7 MR. YOSHIMORI: No questions.

8 CHAIRPERSON SCHEUER: Commissioners?

9 COMMISSIONER CHANG: Aloha, Rocky. Thank
10 you for being here today.

11 Does the civic club represent families who
12 have connection to this particular area?

13 THE WITNESS: Yes, they do.

14 COMMISSIONER CHANG: Are some of your
15 members cultural practitioners of that area?

16 THE WITNESS: Yes.

17 COMMISSIONER CHANG: And they support this
18 motion that was --

19 THE WITNESS: Yes, they do.

20 And I want to answer one of your questions
21 about Aha Moku. We had a Aha Moku retreat in
22 September, and we discussed this area and that we
23 represented all 11 ahupua'a in Ko'olaupoko moku and
24 we support it.

25 CHAIRPERSON SCHEUER: Thank you for that

1 clarification.

2 Are there further questions? Commissioner
3 Wong.

4 COMMISSIONER WONG: I just have a question
5 if you can explain to me.

6 So they wanted to -- the Petitioner wants
7 to carve out a portion for Conservation Easement.
8 And I guess this is one of the concerns Commissioner
9 Okuda's statement, if they didn't do anything at all
10 with this property, wouldn't that still protect this
11 area?

12 THE WITNESS: Yes, it would, but it would
13 not protect the residents who are complaining right
14 now about people going through their property to get
15 to the heiau.

16 HMP has worked with our organization to
17 help us make a trail coming from the mortuary, and a
18 safe trail that our kupuna can get. Right now our
19 kupuna has a hard time even going through the
20 community.

21 CHAIRPERSON SCHEUER: Are there further
22 questions for Ms. Kaluhiwa?

23 Our next witness is Gretchen Gould,
24 followed by Chris Delaunay.

25 Aloha, that good morning.

1 Do you swear or affirm the testimony you're
2 about to give is the truth?

3 THE WITNESS: It is.

4 GRETCHEN GOULD

5 Was called as a witness by and on behalf of the
6 Public, was sworn to tell the truth, was examined and
7 testified as follows:

8 DIRECT EXAMINATION

9 THE WITNESS: Aloha, Commissioners. Thank
10 you for hearing this.

11 I think, once again --

12 CHAIRPERSON SCHEUER: Name and address for
13 the record.

14 THE WITNESS: Name is Gretchen Gould,
15 44-365 Kaneohe Bay on the south end of the bay near
16 this property.

17 I have belonged to the Kaneohe Neighborhood
18 Board. I was the Planning Chairman. I was Chairman
19 of the Kaneohe Bay Regional Council, and I belong to
20 the Outdoor Circle who endorses my testimony.

21 And I have lived here since 1969 on the
22 bay. Been very concerned about both the bay and the
23 land on the bay, and that's why I'm here.

24 I'll never forget driving down Namoku
25 Street on a rainy day. The water was pouring down

1 the mauka side of the road in absolute torrents. And
2 it was terrifying.

3 Someone mentioned that the ground at this
4 property is soft so it would be good for burials, but
5 it also means what happens when they bulldoze the
6 property to do this. This is a very steep slope.
7 It's now protected by trees that have roots and
8 leaves to protect the ground, which helps.

9 The dirt and debris from those trees that
10 are now protecting the aina would all go downhill
11 destroying things. It would block Kaneohe Stream and
12 pollute Kaneohe Bay. Even now you can see brown
13 water after rain.

14 And this will continue when the cemetery --
15 if the cemetery is allowed to expand, because there
16 will just be grass with little roots that won't be
17 able to do the same thing that those trees do.

18 I remind you that the owners of this big
19 for-profit mainland company knew that this was
20 conservation land when they purchased it, and they
21 knew what conservation means.

22 Their business plan, which our previous
23 senator pointed out, is based solely on expansion. I
24 don't know how else cemeteries are able to continue
25 to make money.

1 So what happens if they're allowed to
2 expand after that? What happens? The people that
3 said their children's children will be buried there.
4 There's not enough room.

5 I think as Land Use Commission this is
6 something you're going to have to tangle with because
7 this is an island, finite piece of property. Some of
8 the plots on this place are huge, which they don't
9 have to be. Land is expensive on our island.

10 CHAIRPERSON SCHEUER: Three minutes.

11 THE WITNESS: And I'm thinking, I've often
12 said what's going to happen next? The only people on
13 our island who are going to be rich, the tourists,
14 and now are we going to put a third thing, the dearly
15 departed?

16 There are so many other ways to honor our
17 dearly departed ones. And I followed that example as
18 my parents and brother are all cremated. And we
19 get -- I worked also ten years to get a public park
20 at Bay View, and families can gather there and that's
21 what our family will do.

22 CHAIRPERSON SCHEUER: Thank you, Ms. Gould.

23 Questions for the testifier?

24 MR. TABATA: No questions.

25 MR. PANG: No questions.

1 MS. APUNA: No questions.

2 MR. YOSHIMORI: No questions.

3 CHAIRPERSON SCHEUER: Commissioners? Thank
4 you very much for your testimony.

5 Our next testifier is Chris Delaunay,
6 followed by Mark Harris.

7 Do you swear or affirm the testimony that
8 you're about to give is the truth?

9 THE WITNESS: I do.

10 CHRIS DELAUNAY

11 Was called as a witness by and on behalf of the
12 Public, was sworn to tell the truth, was examined and
13 testified as follows:

14 DIRECT EXAMINATION

15 THE WITNESS: Chris Delaunay, Pacific
16 Resource Partnership, 1100 Alakea Street, Fourth
17 Floor, Honolulu, Hawai'i 96813.

18 Thank you, Commissioners, for this
19 opportunity to speak. PRP is in strong support of
20 this project.

21 Hawaiian Memorial Park is a full service
22 cemetery, and it has been in the present location
23 since 1958. Hawaiian Memorial Park continues to
24 provide this important service to the public and the
25 communities, surrounding communities. However, as we

1 know the space is limited at the cemetery and
2 expansion is needed.

3 This is one of the few cemeteries on Oahu,
4 and approval for expansion plans is an important step
5 towards meeting the growing demand for Hawaii's aging
6 population.

7 We understand that Hawaiian Memorial has
8 made efforts to address cultural and environmental
9 concerns with this site. Therefore, we just want to
10 respectfully request this Commission to allow for the
11 expansion of this project.

12 Thank you for this time.

13 CHAIRPERSON SCHEUER: Are there questions?

14 MR. TABATA: No questions.

15 MR. PANG: No questions.

16 MS. APUNA: No.

17 MR. YOSHIMORI: No questions.

18 CHAIRPERSON SCHEUER: Commissioners?

19 Mahalo.

20 Are our next testifier is Mark Harris
21 followed by Ryan Kobayoshi.

22 Again, if I call your name following the
23 current testifier, please come and sit in the chair
24 behind to minimize the transition time.

25 So Ryan Kobayoshi followed by Nathaniel

1 Kinney.

2 You do you swear or affirm the testimony
3 you're about to give is the truth?

4 THE WITNESS: I do.

5 CHAIRPERSON SCHEUER: State your name and
6 address for the record.

7 MARK HARRIS

8 Was called as a witness by and on behalf of the
9 Public, was sworn to tell the truth, was examined and
10 testified as follows:

11 DIRECT EXAMINATION

12 THE WITNESS: My name is Mark Harris. My
13 residence is 45-170 Place. I make my brief -- my
14 family has been in this residence since 1964. We
15 have been victimized by the flooding. We do feel a
16 threat from expansion, certainly.

17 I understand economic balances that this
18 Commission is trying to achieve between land use and
19 jobs and the rights to expand, but as the lady stated
20 earlier, this Texas company bought this land as
21 Conservation land. I only see one out for them, they
22 have to have housing. At the rate that people are
23 cremating, it's not going to make more jobs.

24 The other part of it is, the detention
25 ponds are undersized. It will not alleviate

1 flooding. If you do the math, one million gallons of
2 detention time is roughly six hours. So the way that
3 it has been raining, with climate change, we will
4 still have the same flooding. So if there is going
5 to be expansion, there has to be significant
6 infrastructure change to what currently exists. And
7 what currently exists was built in 1964.

8 So I do not see the will of the City and
9 County of Honolulu or this company to actually create
10 infrastructure to manage the level of water that
11 comes off that mountain.

12 And as a child having played and enjoyed
13 the benefits of this open space, I actually think
14 there should be more consideration if you're
15 concerned about the youth.

16 What makes Hawai'i beautiful is open space.
17 So that's my two cents.

18 CHAIRPERSON SCHEUER: Mahalo. There might
19 be questions for you, Mr. Harris.

20 Questions for the witness?

21 MR. TABATA: Yes, thank you.

22 CROSS-EXAMINATION

23 BY MR. TABATA:

24 Q Mr. Harris, one of your major concerns is
25 flooding, correct?

1 A Yes.

2 Q Do you think there should be some proactive
3 measure taken to reduce the flooding in the area?

4 A I definitely believe that.

5 Q If somebody can prove to you that those
6 proactive measures will decrease the runoff that goes
7 down into the subdivision, would you support that
8 effort?

9 A I would support the effort if that was done
10 and that the Conservation was in perpetuity, not the
11 opportunity five years from now, ten years from now
12 that we'd be having the same meeting and they would
13 be asking for housing.

14 Q So would you like us to use some measure
15 taken that would prevent further expansion?

16 A I think further expansion on this property
17 for burial is probably not going to happen, because
18 the general population is going away from traditional
19 burial regardless of whether you expand or not.

20 Q But it's safe to say you need this proved
21 to you, right?

22 A I would say that I would like that proof,
23 yes. The EIS report does not address climate change.

24 Q Thank you for your testimony.

25 CHAIRPERSON SCHEUER: City?

1 MR. PANG: No questions.

2 MS. APUNA: No questions.

3 MR. YOSHIMORI: No questions.

4 CHAIRPERSON SCHEUER: Commissioners?

5 Thank you very much for your testimony.

6 I've been advised that Ryan Kobayoshi is
7 not here.

8 Nathaniel Kinney, followed by Lu'okia
9 Akamine.

10 Do you swear or affirm the testimony you're
11 about to give is the truth?

12 THE WITNESS: Yes, I do.

13 NATHANIEL KINNEY

14 Was called as a witness by and on behalf of the
15 Public, was sworn to tell the truth, was examined and
16 testified as follows:

17 DIRECT EXAMINATION

18 THE WITNESS: Aloha. My name is Nathaniel
19 Kinney, Executive Director of the Hawai'i
20 Construction Alliance, located 1617 Palama Street,
21 Honolulu, Hawai'i 96817, and I'm testifying in
22 support of the proposed expansion. Hawaiian Memorial
23 Park continues to provide vital service, but as we
24 all know, the available inventory of burial
25 internment and memorialization space is nearly

1 exhausted.

2 It is vital to approve the expansion plans
3 and meet the growing demands for inventory. Hawaiian
4 Memorial Park has also made commitment to support our
5 culture and the environment, such as a cultural
6 preserve for the heiau, Conservation Easement on the
7 entire parcel prohibit future development.

8 A management plan to protect the habitat
9 for damselfly, as well as made a commitment to hire
10 local contractors and local workers to work on
11 expansion.

12 So that's why we're testifying in support
13 of the expansion. Thank you.

14 CHAIRPERSON SCHEUER: Are there questions
15 for the testifiers?

16 MR. TABATA: No questions.

17 MR. PANG: No questions.

18 MS. APUNA: No questions.

19 MR. YOSHIMORI: No questions.

20 CHAIRPERSON SCHEUER: Commissioners?

21 Thank you very much, Mr. Kinney.

22 Lu'ukia Akamine, followed by Boonson Azama.

23 Aloha. I'm going to swear you in first,
24 then you can state your name and address.

25 Do you swear or affirm the testimony you're

1 about to give is the truth?

2 THE WITNESS: Yes.

3 LU'UKIA AKAMINE

4 Was called as a witness by and on behalf of the
5 Public, was sworn to tell the truth, was examined and
6 testified as follows:

7 DIRECT EXAMINATION

8 THE WITNESS: My name is Lu'uia Akamine,
9 and my address is 46-204 Kalaula Place.

10 Aloha, I am a sophomore at Castle High
11 School and I'm a resident of Kaneohe. I disagree
12 with the district boundary amendment of Hawaiian
13 Memorial.

14 This doesn't just affect the residents in
15 the area, it affects the whole community because of
16 the watershed. The watershed is an important
17 necessity that we sometimes overlook because we don't
18 realize the process of where the water comes from.

19 In high school we learned about the water
20 cycle and what happens if just one of the process is
21 disturbed.

22 With the expansion that means that this
23 many acres will be less area for our water to be
24 filtered through. We all live downstream, which
25 means we will all be affected.

1 I'm a part of the next generation that will
2 be in Kaneohe, and I don't want consequences of the
3 past generations to be affected where I live.

4 Thank you.

5 CHAIRPERSON SCHEUER: Thank you very much.
6 Are there questions for the testifier?

7 MR. TABATA: No questions.

8 MR. PANG: No questions.

9 MS. APUNA: No questions.

10 MR. YOSHIMORI: No questions.

11 CHAIRPERSON SCHEUER: Commissioners?
12 Commissioner Chang.

13 COMMISSIONER CHANG: I don't have a
14 question, more a statement.

15 Thank you for being here this morning and
16 for participating in the process.

17 CHAIRPERSON SCHEUER: Commissioners? I
18 would echo. It's delightful to have somebody who is
19 still in high school come in front of this Commission
20 and talk about your thoughts on this matter.

21 Thank you for your testimony.

22 Our next testifier Bronson Azama followed
23 by Heiley Hakoba.

24 Aloha, do you swear or affirm the testimony
25 you're about to give is the truth?

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THE WITNESS: Yes.

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1 BRONSON AZAMA

2 Was called as a witness by and on behalf of the
3 Public, was sworn to tell the truth, was examined and
4 testified as follows:

5 DIRECT EXAMINATION

6 THE WITNESS: (Hawaiian spoken).

7 I did have a paper to follow, but it seemed
8 like I'm going go --

9 CHAIRPERSON SCHEUER: Please give us your
10 name and address for the record, and then proceed.

11 THE WITNESS: My name is Bronson Azama,
12 46-232 Kahuhipa Street, Apartment E206.

13 I do want to speak -- I will be speaking
14 from the heart today, from my mana'o.

15 Largely because there's been a lot of
16 conversations going on behind the scenes regarding
17 where you stand on this issue. And I want to address
18 that.

19 I am against the Hawaiian Memorial Park
20 expansion, but I very much do wish that all the
21 kupuna here, and everybody, and all the work that
22 they put into the Conservation Easement and
23 preserving and protecting and restoration effort for
24 our cultural preserves, but I just do not simply
25 agree with the adverse impacts this will have on our

1 environment, because in reality these burials,
2 they're really unsustainable practices. They carry
3 embalming fluid, and all these chemicals that go into
4 the earth.

5 And as a kanaka maoli, we have a very
6 interesting relationship with our aina. Looking at
7 the earth as earth mother Papahanaumoku, and the
8 ocean as Kanaloa, and having these understandings of
9 mauka to makai concept, it doesn't make sense for me
10 to just agree.

11 And I do have ohana that are buried there,
12 but I cannot find myself to agree with any ounce of
13 any poison going into our water and going into our
14 ocean, especially when we are in a time where we're
15 seeing such great abundance coming back to our moku.
16 It takes too many of the kupuna here actually.

17 I don't want to see that be harmed in any
18 way for our descendents, and that's why I really
19 can't agree with this project.

20 CHAIRPERSON SCHEUER: Mahalo. Are there
21 questions for the testifier?

22 MR. TABATA: No questions.

23 MR. PANG: No questions.

24 MS. APUNA: No questions.

25 MR. YOSHIMORI: No questions.

1 runoff from the current burial area contributes to
2 the Kawa Stream that washes straight into Kaneohe
3 Bay.

4 Another reason is that the land that would
5 potentially be turned into urban land has historic
6 and cultural significance.

7 Lastly, the chemicals in the bodies buried
8 are released into the ground where we get our water
9 from.

10 The expansion of Hawaiian Memorial impacts
11 surrounding community directly. The Kawa Stream that
12 I previously mentioned is known to be very polluted.
13 The water from the stream enters the bay where our
14 residents fish and dive.

15 It also happens to go into Waikalua Loko
16 I'a. A source of pollutants in the water comes from
17 the chemicals in the products used to maintain the
18 quality of the grass of the cemetery. Within the 53
19 acres planned to be used for the expansion, only 14
20 acres will be undeveloped.

21 This is due to the heiau located in this
22 area. I appreciate the concern for this area and
23 heiau, but what about the other areas within the 53
24 acres where historical artifacts were found?

25 Another big concern I have is about the

1 embalming fluid that the ground takes from the buried
2 bodies.

3 There is also an endangered native species
4 of damselfly that is endemic to the Island of Oahu,
5 and the plan to support this endangered species is
6 poorly thought through.

7 I am asking that the LUC considers the
8 extreme effects that the community and natural
9 resources will experience immediately and long term
10 with the continuance of the expansion of the Hawaiian
11 Memorial. The watershed, further stream
12 contamination, historical structures, and endangered
13 native species are at stake.

14 I hope you put yourself in the shoes of the
15 community members that would be affected directly and
16 indirectly. Mahalo.

17 CHAIRPERSON SCHEUER: Thank you for your
18 testimony.

19 Questions for the witness?

20 MR. TABATA: No questions.

21 MR. PANG: No questions.

22 MS. APUNA: No questions.

23 MR. YOSHIMORI: No questions.

24 CHAIRPERSON SCHEUER: I assume this is your
25 first time in front of the LUC?

1 THE WITNESS: Yes.

2 CHAIRPERSON SCHEUER: Just so you know, for
3 you and your young colleagues, in case you came here
4 together, the way we do our proceedings is that after
5 all this public testimony, the Petitioner will have a
6 chance to bring forth witnesses and make arguments.
7 Then the City and County and Office of Planning, then
8 the Intervenors. After all of that, which will
9 probably take many days, we will deliberate. We will
10 make a decision. It's not made yet.

11 Then actually issue a document that is
12 called the Findings of Fact, Conclusions of Law,
13 Decision and Order that will actually lay out how we
14 weigh all these different -- and obviously you just
15 heard from testimony this morning -- conflicting
16 viewpoints and conflicting interpretations of that.

17 So I would encourage that you and your
18 colleagues, it'd be great if you stayed through the
19 whole proceeding, but I don't expect you to stay with
20 us for all days, but at least when this is all pau,
21 take a look at and discuss with your young colleagues
22 how we came to this decision whether you agree or
23 disagree.

24 But I think it's an opportunity to continue
25 and learn and engage with how the State of Hawai'i

1 makes these difficult and contentious decisions.

2 Any other questions?

3 Cory Ing, followed by Laura Paul or Pale.

4 Aloha. Do you swear or affirm the
5 testimony you're about to give is the truth?

6 THE WITNESS: Yes.

7 CORY ING

8 Was called as a witness by and on behalf of the
9 Public, was sworn to tell the truth, was examined and
10 testified as follows:

11 DIRECT EXAMINATION

12 THE WITNESS: Aloha. My name is Cory Ing.
13 I live at 47-Hui Ewa Street. I am a concerned
14 community member and I'm opposed to the expansion.

15 I would like to speak for the next
16 generation who don't know about the land expansion.
17 I believe that all land should receive -- if this
18 proposal goes through, other organizations will think
19 that obtaining land is just a paper process and
20 nothing more.

21 I value the land, as my family, because the
22 land is what feeds me and take cares of me.

23 As a young, I'd like my kids to see Kaneohe
24 as the greenest place on the island and not a
25 concrete jungle. Mahalo.

1 CHAIRPERSON SCHEUER: Mahalo for your
2 testimony. Questions for the witness?

3 MR. TABATA: No questions.

4 MR. PANG: No questions.

5 MS. APUNA: No questions.

6 MR. YOSHIMORI: No questions.

7 CHAIRPERSON SCHEUER: Mahalo.

8 Commissioner Chang.

9 COMMISSIONER CHANG: I just wanted to thank
10 you. Were you a little nervous?

11 THE WITNESS: Little bit, yeah.

12 COMMISSIONER CHANG: You did good. Thank
13 you.

14 CHAIRPERSON SCHEUER: Laura Paul followed
15 by Colleen Everett.

16 Do you swear or affirm the testimony you're
17 about to give is the truth?

18 THE WITNESS: I do.

19 LAURA PAUL

20 Was called as a witness by and on behalf of the
21 Public, was sworn to tell the truth, was examined and
22 testified as follows:

23 DIRECT EXAMINATION

24 THE WITNESS: My name is Laura Paul and I
25 reside at 45-302 Puali Street, Kaneohe.

1 So I'm in the neighborhood directly
2 affected by this expansion. I live off of Namoku
3 Street.

4 I want to mahalo the kupuna in this room
5 that made -- (coughing interruption). My child is
6 the fourth generation to be raised --

7 CHAIRPERSON SCHEUER: Sorry, can you stay a
8 consistent distance from the microphone?

9 THE WITNESS: I can.

10 My child is the fourth generation to be
11 raised in this household. My kupuna are buried at
12 Hawaiian Memorial. My parents and I have plots
13 there, and if I have anything to say about it, we
14 will not use it, because like the opio before me, I
15 am concerned about the expansion of this graveyard
16 and I oppose it.

17 I oppose the conversion of conservation
18 land for profit, because that's what it is, it's for
19 profit. This graveyard is not expanding because of
20 the goodness of their heart. They need to for
21 economic viability.

22 And I want to recognize diverse opinions
23 and strong passion around burial practices. And I
24 mean no disrespect to anybody, this is just my
25 mana'o.

1 I cannot go through the current burial
2 practices of embalming and putting varnish and metal
3 into our ground that will essentially end up in the
4 groundwater of my future grandchildren. I cannot in
5 good conscious participate in this practice.

6 Now that I know better, I must do better.

7 I'm going to urge you as a Commission to
8 look at the Conservation lands and its uses in the
9 future that preserve that Conservation, and not allow
10 this expansion to take place that replaces
11 Conservation with poison, because that's what the
12 current burial practices do. Mahalo.

13 CHAIRPERSON SCHEUER: Questions for the
14 witness?

15 MR. TABATA: No questions.

16 MR. PANG: No questions.

17 MS. APUNA: No questions.

18 MR. YOSHIMORI: No questions.

19 CHAIRPERSON SCHEUER: Commissioners?
20 Mahalo nui.

21 Our next testifier is Colleen Everett,
22 followed by Lauren Pokipala.

23 Can I have a show of hands before you
24 begin. Any individuals wishing to deliver public
25 testimony who have not signed in yet? I'm trying to

1 manage the time so actually we have -- we will have
2 testimony from you and then we will take another
3 ten-minute break then proceed with further testimony.

4 Do you swear or affirm that the testimony
5 you're about to give is the truth?

6 THE WITNESS: I do.

7 CHAIRPERSON SCHEUER: State your name and
8 address.

9 THE WITNESS: Colleen Everett, address
10 45-31 Holowai Place, Kaneohe, Hawai'i.

11 COLLEEN EVERETT

12 Was called as a witness by and on behalf of the
13 Public, was sworn to tell the truth, was examined and
14 testified as follows:

15 DIRECT EXAMINATION

16 THE WITNESS: Aloha mai kakou. My name is
17 Colleen Everett, and I am a lifelong resident of
18 Kaneohe, and I oppose the expansion plans for
19 Hawaiian Memorial.

20 I'm not a person with a title. I don't
21 represent an organization. I'm not paid to be here
22 today. I'm here as a lifelong resident as stated
23 earlier of Kaneohe.

24 I want to use my very short time that I
25 have to mahalo LUC in coming to this area and hearing

1 the testimony of all interested parties. I want to
2 acknowledge our kupuna who have and continue to fight
3 these arduous battles for our community. And I want
4 to recognize those here today both seen and unseen.

5 As a young person living in Kaneohe, coming
6 to Ko'olaupoko through the Likelike and Pali tunnels,
7 I knew that I was in the country.

8 Clues of nature let me know that I had left
9 the hustle and bustle of town, and I was in a place
10 with green spaces, banana patches and the nonexistent
11 constant urban sprawl found in downtown Honolulu.

12 However, the landscape I once knew no
13 longer exists for myself, my children and
14 grandchildren. And what this community will look
15 like for my grandchildren is frightening.

16 In Kaneohe we have many battles that we are
17 fighting. We have preservation land in Puohala being
18 threatened by the City Council to be rezoned so that
19 million dollar homes can be put in that area.

20 Kaneohe Yacht Club is getting a permit from
21 Board of Health Clean Water Branch to dump designated
22 pollutant and toxic toxins into pristine double A
23 waters in Kaneohe Bay, and now Hawaiian Memorial
24 expansion.

25 As I said earlier, with this limited amount

1 of time that I have, I want to share my concerns I
2 have about the project. And as some of my students
3 have said, the impact that this project has on the
4 aina.

5 What is interesting to me is Hawaiian
6 Memorial has been in existence for numerous years,
7 however, their idea of, as one person said,
8 commitment to support the culture, I question.

9 As only in recent days -- or not days --
10 but in recent history have they shown a concern in
11 preserving these cultural components that now exist
12 on their property.

13 To me this idea smacks of quid pro quo. We
14 will give your community something and in return we
15 expect an unquestioned support of what happens on the
16 aina. Ko'olaupoko --

17 CHAIRPERSON SCHEUER: Three minutes.

18 THE WITNESS: Ko'olaupoko was a famous area
19 for mahi'ais to plant. Not only what we plant and
20 what we feed, but how we plant ourselves in this
21 aina. Mahalo.

22 CHAIRPERSON SCHEUER: Are there questions
23 for the testifier?

24 MR. TABATA: No questions.

25 MR. PANG: No questions.

1 MS. APUNA: No questions.

2 MR. YOSHIMORI: No questions.

3 CHAIRPERSON SCHEUER: Mahalo for your
4 testimony.

5 It's 11:11. The three testifiers that I
6 have on this list following the break are Lauren
7 Pokipala, Rayne Pakele, and Kiale Aiwohi, plus some
8 other individuals have signed up.

9 If you have not signed up and wish to
10 testify, please see the sign-up list right behind
11 Riley Hakoda. It is our intent to close public
12 testimony after everybody who signed up has given
13 their testimony.

14 THE WITNESS: Would it be possible to hear
15 one more person who is a teacher, and we can take our
16 kids back to school?

17 CHAIRPERSON SCHEUER: Yes, that's fine with
18 us. Thank you for that clarification.

19 Do you swear or affirm that the testimony
20 you're about to give is the truth?

21 THE WITNESS: I do.

22 CHAIRPERSON SCHEUER: Please state your
23 name and address for the record and proceed.

24 LAUREN POKIPALA

25 Was called as a witness by and on behalf of the

1 Public, was sworn to tell the truth, was examined and
2 testified as followed:

3 DIRECT EXAMINATION

4 THE WITNESS: Laurene Pokipala, 45-407
5 Kuaua Way, K-U-A-U-A.

6 Aloha, my name is Laurene Pokipala, and I'm
7 a concerned citizen of this community. I'm opposed
8 to the expansion. I understand this proposal has
9 been in the works for many years, and our kupuna have
10 been working together with Hawaiian Memorial to come
11 up with a plan.

12 However, I also have come to appreciate
13 this place I call home, because I realized the
14 impacts I have on this community. My kuleana or
15 responsibility is to make sure our aina is managed
16 with the utmost care, so our future generations won't
17 suffer the consequences created by those sitting here
18 today.

19 The people of Hawai'i have been
20 shortchanged many times, and we need to make sure we
21 think about how our decision today impact us years
22 from now. Words can be said and written, but follow
23 through seems to be the issue.

24 If Hawaiian Memorial is granted the
25 boundary amendment, what will stop others in asking

1 for the same? I just don't want to see Kaneohe
2 developed because I, along with many others, are able
3 to enjoy what's left of it. Mahalo.

4 CHAIRPERSON SCHEUER: Thank you for your
5 testimony.

6 Are there questions for the testifier?

7 MR. TABATA: No questions.

8 MR. PANG: No questions.

9 MS. APUNA: No questions.

10 MR. YOSHIMORI: No questions.

11 CHAIRPERSON SCHEUER: Commissioner Wong.

12 COMMISSIONER WONG: Just to say thank you
13 for allowing me to come out with your students,
14 because if I had a teacher like you that cared, I
15 might have turned out differently, but thank you.

16 CHAIRPERSON SCHEUER: Was that a motion,
17 Commissioner Wong? (Laughter.)

18 Commissioner Cabral.

19 VICE CHAIR CABRAL: And I want to thank you
20 also. I'm assuming that the kids came out with you
21 and perhaps the other lady as teachers, and it is
22 really wonderful.

23 I'm just kind of curious. In your
24 teaching, clearly you have a lot of passion about
25 this and your commitment is there, have you taken it

1 to the next step of how do you answer that question?
2 Because it was brought up before. So how do we as a
3 society then, because -- I'm assuming the kids are in
4 high school and very well spoken.

5 How do we, as a society, then take care of
6 this issue?

7 I want you guys to just maybe think about
8 there is obviously, as you can tell, two sides of the
9 story, and maybe continue that discussion.

10 So there was suggestion that we only allow
11 people to be cremated and I'm so grateful our
12 Commission is not dealing with that question.

13 But anyway, I just wanted to encourage you
14 to continue to find solutions, because no is just one
15 side of something, and our problems of a society is
16 the solution, the consideration.

17 Thank you very much for bringing your
18 students and having them --

19 THE WITNESS: If I can just mention that in
20 the DOE we're not allowed to push one side. And so
21 you -- a lot in high school writing is argumentative
22 writing. So students have to view both sides, and
23 then come to conclusion.

24 So we have shared with them the articles
25 that came out on both sides. So it was up to them

1 ultimately, and some of them just wanted to come and
2 see what Land Use Commission hearing is like. Just
3 they're going to be citizens in our community soon.
4 They need to know and understand how decisions are
5 made.

6 So it's not just like a one-sided thing.

7 VICE CHAIR CABRAL: That's really
8 excellent.

9 Did any of your students, if they didn't
10 come, did any of them have a different opinion or
11 did --

12 THE WITNESS: Some of them did, but they
13 chose not to come because they didn't want to miss
14 physics or their algebra class, but they did submit
15 their testimony online.

16 CHAIRPERSON SCHEUER: Good to know where we
17 rank in relation to physics. Thank you very much.

18 Anything further?

19 Commissioner Giovanni.

20 COMMISSIONER GIOVANNI: I want to add my
21 appreciation and respect and admiration for all the
22 students and the teachers for encouraging the
23 students to think about these very provocative and
24 difficult questions that are facing our society
25 today.

1 I really think that's the generation that
2 is really going to solve these problems. My
3 generation has given them the problems, hope they can
4 solve them. And I feel bad that we left them with
5 that burden.

6 Thank you so much. Stay involved and
7 participate. These are difficult questions.

8 THE WITNESS: Mahalo.

9 CHAIRPERSON SCHEUER: Commissioner Okuda.

10 COMMISSIONER OKUDA: Thank you, Chair.

11 As a graduate of Kailua High School many
12 decades ago, I won't hold it against you if you are
13 from Castle High School.

14 I like to echo -- I think you can see that
15 at least many of us believe democracy works best if
16 all the different viewpoints are put out on the
17 table. We treat each other respectfully. We are all
18 human, so we're not going to necessarily make the
19 right or correct decision, but I think that if we
20 listen to each other, sometimes we compromise, but
21 sometimes if we feel strongly about something, we
22 stick to our beliefs that's what makes this community
23 function.

24 And it's a real credit to you educators
25 that you have your students actually see what is

1 going on, because I agree with Commissioner Giovanni
2 that the problems seem to be mounting a lot more in
3 Hawai'i, and it's going to take the efforts of
4 everyone to make this a better state. Thank you.

5 CHAIRPERSON SCHEUER: Are there further
6 questions?

7 COMMISSIONER CHANG: Thank you, Ms.
8 Pokipala, for coming here and bringing the students.
9 Too often -- I appreciate that you have found a
10 constructive way to channel this energy to have them
11 research and investigate, come to their own
12 conclusions. I think that's really healthy and just
13 productive for our society.

14 And specifically this is in their backyard,
15 so mahalo. I applaud all of you and your students
16 for being here. It does take bravery and courage to
17 come out, as you can see.

18 This is probably one of our largest public
19 participations, so I really applaud the manner in
20 which you have presented the issues to them and ask
21 them to come to their own conclusion. And we
22 struggle.

23 And so as the Chair said, it might be
24 really worthwhile for your class just to follow the
25 LUC proceedings and to see how we are struggling with

1 the same issues, the process that we go through.

2 But, again, mahalo, appreciate what you've
3 done and all of your students.

4 CHAIRPERSON SCHEUER: Commissioners,
5 further comments?

6 I will now not -- to you and your ohana, I
7 teach a course at the Richardson School of Law. Just
8 last night I asked how many of my students knew about
9 the LUC. Quite a few didn't. So you guys are
10 already ahead of a lot of college graduates.

11 It's 11:20, we will reconvene promptly at
12 11:30.

13 (Recess taken.)

14 CHAIRPERSON SCHEUER: We're back in
15 session. I'm going to ask all other conversation in
16 the room to cease, because we record this as well as
17 having a court reporter. I do really try to be a
18 stickler on time. It is very easy for these
19 proceedings to sort of spin out of control a minute
20 here, a minute there, and suddenly you can't get
21 through the public testimony on the first day.

22 And I think it's appropriate to this
23 docket -- I mostly work on water issues -- so when I
24 was young and arrogant I always used to talk about
25 how water is the most important resource.

1 Now that I'm old and arrogant, rather than
2 young and arrogant, I realize time is our most
3 important resource. That's the one thing we all run
4 out of. So I do try to stick to the schedule.

5 Our next testifier is Rayne Pakele followed
6 by Kiale Aiwohi.

7 Good morning.

8 THE WITNESS: Good morning.

9 CHAIRPERSON SCHEUER: Do you swear or
10 affirm the testimony you're about to give is the
11 truth?

12 THE WITNESS: Yes.

13 CHAIRPERSON SCHEUER: Name and address.

14 THE WITNESS: Rayne Pakele, 47-257 Waihee
15 Road.

16 RAYNE PAKELE

17 Was called as a witness by and on behalf of the
18 Public, was sworn to tell the truth, was examined and
19 testified as follows:

20 DIRECT EXAMINATION

21 THE WITNESS: Aloha, my name is Rayne
22 Pakele, and I oppose rain the expansion of Hawaiian
23 Memorial because the land they're asking to amend is
24 Conservation lands.

25 As a resident of the community I would like

1 to perpetuate the way our land is now, although it
2 gives everyone a chance to be reunited with past
3 loved ones such as me and my papa, I oppose the
4 expansion due to the greediness of -- you allow one
5 Conservation land to open and build, others will
6 think it's okay to do it.

7 People will purchase Conservation lands and
8 try to make money off of it, and it happens again and
9 again. And time will repeat itself, and we will no
10 longer have any land to hang onto.

11 CHAIRPERSON SCHEUER: Thank you.

12 Are there questions for the testifier?

13 MR. TABATA: No questions.

14 MR. PANG: No questions.

15 MS. APUNA: No questions.

16 MR. YOSHIMORI: No questions.

17 CHAIRPERSON SCHEUER: Commissioners?

18 COMMISSIONER CHANG: Thank so much for
19 being here and taking the time to provide your
20 testimony.

21 CHAIRPERSON SCHEUER: Thank you.

22 Our next testifier is Kiale Aiwohi followed
23 by Kahekili LaButto.

24 Do you swear or affirm the testimony you're
25 about to give is the truth?

1 THE WITNESS: Yes.

2 CHAIRPERSON SCHEUER: State your name and
3 address for the record.

4 THE WITNESS: Kiale Aiwohi, and I live at
5 45-502 Waikolua Place.

6 KIALE AIWOHI

7 Was called as a witness by and on behalf of the
8 Public, was sworn to tell the truth, was examined and
9 testified as follows:

10 DIRECT EXAMINATION

11 THE WITNESS: Aloha, my name is Kiale
12 Aiwohi and I'm a resident of Kaneohe. I have one
13 brother is buried in one of the -- at Hawaiian
14 Memorial, but I don't think they should expand
15 Hawaiian Memorial.

16 I disagree with the expansion because the
17 key word in the phrase "Conservation land" is to
18 conserve, to protect something especially, an
19 environmentally or culturally important place from
20 harm or destruction.

21 If you were to expand into this
22 Conservation lands, you would not be conserving the
23 land at all. I'm asking you to vote against
24 expansion because I want to protect what is left of
25 Kaneohe so I can raise my family in this beautiful

1 space. Mahalo.

2 CHAIRPERSON SCHEUER: Thank you for your
3 testimony. Questions?

4 MR. TABATA: No questions.

5 MR. PANG: No questions.

6 MS. APUNA: No questions.

7 MR. YOSHIMORI: No questions.

8 CHAIRPERSON SCHEUER: Commissioners?

9 COMMISSIONER CHANG: I started down this to
10 make sure I acknowledge each one of you. So if you
11 were little nervous, you did good though. Thank you
12 so much for your testimony.

13 CHAIRPERSON SCHEUER: Kahekili LaButto,
14 followed by Sandra Albers.

15 THE WITNESS: My name is --

16 CHAIRPERSON SCHEUER: Do you swear or
17 affirm the testimony you're about to give is the
18 truth?

19 THE WITNESS: Yes, sir. Sorry about my
20 writing, is pretty horrible. So 45-412 Ohaha Street.

21 KAHEKILI LaBUTTO

22 Was called as a witness by and on behalf of the
23 Public, was sworn to tell the truth, was examined and
24 testified as follows:

25 DIRECT EXAMINATION

1 THE WITNESS: The proposed expansion is
2 right behind my house. I'm a mahi'ai. I'm a
3 defender of mahi'ai. My keiki is a descendent of
4 high priest, and, you know, that area behind there, I
5 have lo'i kalo, dryland kalo. I have olena. I have
6 awapuhi, uala, we have leilehua trees that we
7 maintain back there.

8 There is also a heiau, 13 cultural sites
9 back there that are not marked.

10 This heiau complex is very big. I work
11 with Tom Hena (phonetic). He does lunar calendar and
12 celestial and astrological events. So I'm working
13 with him to connect multiple heiaus with this luakini
14 heiau behind my house.

15 I'm also concerned about the burials they
16 wanted to do for the ohana, I guess 100 ohana. I was
17 confused because luakini heiau don't normally have
18 burials near them. On top of that, I don't know a
19 lot practice, the kapu, of pulling off the flesh of
20 the bones then burying the ohana.

21 So these are questions. And a lot of
22 things I was very concerned about. On top of that,
23 there's no topsoil. People who own the land -- I
24 don't know who it is, if it's the cemetery -- but
25 I've been remediating the soil. There's a lot of

1 invasive plants back there that I've been having to
2 chop down, stuff like that. Put carbon, nitrogen
3 back into the ground, fish amino acid, all kinds of
4 stuff from Korean natural farming, mixing with our
5 ike kupuna. That's all I have to say.

6 CHAIRPERSON SCHEUER: Thank you for your
7 testimony. Questions?

8 MR. TABATA: No questions.

9 MR. PANG: No questions.

10 MS. APUNA: No questions.

11 MR. YOSHIMORI: No questions.

12 CHAIRPERSON SCHEUER: Commissioners?
13 Commissioner Chang.

14 COMMISSIONER CHANG: Aloha. So you said
15 that there are 13 cultural sites that have not
16 been --

17 THE WITNESS: Not fully marked.

18 COMMISSIONER CHANG: What do you mean by
19 "not marked"?

20 THE WITNESS: Not blocked off. The people
21 who own the property that's sort of next to, not
22 necessarily clear the albezia in the area or the
23 other stuff that is endanger to these cultural sites.

24 On top of that, to clear albezia, you'd
25 need a master mason, someone who knows how to do dry

1 rock stacking. And only one person in the state
2 Francis Nancy and he's not on this project.

3 COMMISSIONER CHANG: What kind of sites are
4 those?

5 THE WITNESS: There is rock stacking.
6 They're other parts of the heiau complex. This heiau
7 is ginormous. It's not just that little square.
8 This whole area lines up with multiple spots on the
9 island that you can clearly see.

10 COMMISSIONER CHANG: Have you had a chance
11 to bring that to the attention of Hawaiian Memorial?

12 THE WITNESS: Yeah, talked with them
13 multiple times.

14 COMMISSIONER CHANG: It sounds like you do
15 a lot of native Hawaiian cultural practice.

16 THE WITNESS: I am a cultural practitioner,
17 recognized by Board of Water Supply, DLNR. If you
18 wanted to talk to Michael Masuo, Ryan Peralta.

19 COMMISSIONER CHANG: So you actually
20 practice behind -- so you live right below?

21 THE WITNESS: Right below the easement.
22 Then behind the easement on their property I'm
23 farming kalo.

24 COMMISSIONER CHANG: Has your family, you
25 and your family been practicing right along this

1 property?

2 THE WITNESS: Uh-huh.

3 COMMISSIONER CHANG: What kind of practices
4 are you doing, if you can share?

5 THE WITNESS: I do oli in the morning. We
6 pray to the sun in the morning, face the east where
7 it comes over the ridge of Kawa'ewa'e. Then, you
8 know, I ask my akua, I ask my kini akua, and all of
9 my other 'aumakua to guide me.

10 And as I say, myself and interest in the
11 aina, me and my sons, and pull weeds throughout the
12 day, unless I have other work. We come back in the
13 afternoon when the sun is setting to praise the sun
14 as it sets.

15 COMMISSIONER CHANG: Are you familiar with
16 the cultural preserve that Hawaiian Memorial Park is
17 proposing?

18 THE WITNESS: I've heard about it, yes, but
19 that was also including these hundred graves which
20 I've never really heard about near a luakini heiau.

21 COMMISSIONER CHANG: In the absence of the
22 graves, do you feel that the cultural preserve will
23 permit you to continue your cultural practices?

24 THE WITNESS: I mean that's sort of a right
25 as Hawaiian that I'm able to do these practices, not

1 necessarily helping me in any way. I think this is a
2 huge project that needs a lot of people, lot of
3 cultural practitioners in the area to work together
4 to get rid of said invasive lands and fix the topsoil
5 so we have less pollution into the area, stuff like
6 that.

7 COMMISSIONER CHANG: At this point in time,
8 is Hawaiian Memorial Park in any way prohibiting you
9 from continuing your constitutionally protected
10 cultural practices?

11 THE WITNESS: I would say I'm a little bit
12 endangered because there is albezia trees that could
13 snap any time and hurt me. But I'm a tree trimmer,
14 so I'm well protected in those types of situations,
15 but I feel the hikers in the area to definitely be
16 harmed.

17 COMMISSIONER CHANG: Has Hawaiian Memorial
18 Park ever prevented you from going into exercise your
19 rights in that area?

20 THE WITNESS: No.

21 COMMISSIONER CHANG: Okay, thank you very
22 much.

23 CHAIRPERSON SCHEUER: Are there other
24 questions, Commissioners? Commissioner Okuda.

25 COMMISSIONER OKUDA: Thank you, Mr. Chair.

1 How many years have you lived on the
2 property you live on?

3 THE WITNESS: We actually been in there for
4 about I'd say six months from my girlfriend's
5 grandmother, because I've been with my girlfriend for
6 six years on that property, visiting for six years as
7 well. My son's been there with me for the past year
8 on the aina.

9 COMMISSIONER OKUDA: How many years have
10 you exercised cultural practices or cultural practice
11 rights in the subject property?

12 THE WITNESS: In the subject property, so
13 since we have moved in there, it's been more -- what
14 is the word -- I would say consistent. As we moved
15 on to the property, a lot less consistent because of
16 the fact that I lived in Moi'ili'ili and I have a lot
17 of other cultural work that I do in other valleys
18 that have other lo'is that I tend to.

19 Because I live in Kaneohe now, I've had
20 more time to free myself and work there.

21 COMMISSIONER OKUDA: I'm just trying to
22 find a timeframe.

23 THE WITNESS: I would say about a year,
24 I've -- we've been doing more, being more consistent.

25 COMMISSIONER OKUDA: For about a year?

1 THE WITNESS: Yes.

2 COMMISSIONER OKUDA: Okay. Thank you very
3 much. Thank you, Mr. Chair.

4 CHAIRPERSON SCHEUER: Commissioner Chang.

5 COMMISSIONER CHANG: Does your family have
6 an ancestral connection to this area?

7 THE WITNESS: My family doesn't actually
8 have direct descendent. My keiki does, yeah.

9 COMMISSIONER CHANG: Have you spoken to the
10 families who do have cultural connections to this
11 area?

12 THE WITNESS: I don't know any families
13 that have cultural connection to the area other than
14 the Kalamas. And I have their full agreeance that
15 I'm able to farm in their area. They live on
16 Molokai. There's now direct descendents of Hakalei
17 Kalama (phonetic).

18 COMMISSIONER CHANG: I'm not too sure if
19 you were here this morning, but there were people
20 like Rocky, Auntie Rocky Kaluhiwa, Mahealani -- have
21 you spoken of the families --

22 THE WITNESS: I haven't spoken to Auntie
23 Rocky. She knows my family really well, but I have
24 spoke a little bit with Mahealani, just one phone
25 call.

1 CHAIRPERSON SCHEUER: Commissioners,
2 further questions for the witness? If not, I have a
3 couple.

4 I just want to clarify. You said you've
5 had discussions with the Petitioner, Hawaiian
6 Memorial Park.

7 Can you describe the nature of those?

8 THE WITNESS: I just wanted to know what
9 the nature of the project was pretty much. And then
10 I had a follow-up conversation where I notified them
11 that I do farm back there and that, you know, that's
12 my area of subsistence. That's where I gather food.

13 Those were the conversations we had. I've
14 also left voice mails, if you wanted to go --

15 CHAIRPERSON SCHEUER: I don't have that
16 power.

17 When was this?

18 THE WITNESS: I would say last month I
19 called them about at least once a week. I also
20 called and visited the office about once a week for
21 about a whole month straight.

22 CHAIRPERSON SCHEUER: Just to clarify, you
23 said lo'i were there, but sounds like a mala.

24 THE WITNESS: And so it's mala in a sense,
25 but there is certain areas where I am also dividing

1 out lands to catch water. So it's moist, but because
2 of the topsoil not being there, it's hard to control
3 the water.

4 CHAIRPERSON SCHEUER: Mahalo. Anything
5 further, Commissioners? Commissioner Chang.

6 COMMISSIONER CHANG: Just one point of
7 clarification.

8 So the land that you're exercising, the
9 lo'i kalo, is that land that you own or lands --

10 (Indecipherable.)

11 THE WITNESS: No, that's land grown
12 below -- yeah, going up there, taken out invasive
13 species and putting in indigenous species into those
14 lands.

15 COMMISSIONER CHANG: And you talk story
16 with them? They know that you're --

17 THE WITNESS: Yes.

18 COMMISSIONER CHANG: And they've given you
19 permission?

20 THE WITNESS: Yeah, they say as long as I
21 don't get hurt.

22 COMMISSIONER CHANG: Thank you.

23 CHAIRPERSON SCHEUER: Our next testifier is
24 Sandra Albers, followed by Puanani Akaka, followed by
25 Linda Chang.

1 Do you swear or affirm that the testimony
2 you're about to give is the truth?

3 THE WITNESS: I do.

4 My name is Sandra Albers. I live at 45-195
5 Keana Road in Kaneohe.

6 SANDRA ALBERS

7 Was called as a witness by and on behalf of the
8 Public, was sworn to tell the truth, was examined and
9 testified as follows:

10 DIRECT EXAMINATION

11 THE WITNESS: I notice that almost
12 everyone who's opposing the expansion has an address
13 that starts with 45, 46 or 47. Those are all of us
14 grass roots people that live in the area that will be
15 affected.

16 There has been a lot of testimony giving
17 microcosmic and technical detail like the kapu of the
18 luakini, and information about the damselfly,
19 information about retention ponds. But I would like
20 the Commission to broaden your view, step back and
21 look at the macrocosmic view.

22 I've been hearing you say words like
23 "democracy" and "society". Thank you for that, and
24 thanks for your awareness of the way this issue is
25 microcosm, macrocosm of many struggles that have been

1 going on in our country for over 200 years.

2 I think about the indian treaties, when the
3 indigenous Americans on the mainland sold their land,
4 somebody made a profit off them. They lost their
5 lives, their livelihood.

6 This is a similar situation. We have a
7 responsibility to the younger generation and to
8 ourselves to support the soul and the life of the
9 land. The trees give us air. They stop the flooding
10 from happening. And as you who live here have seen,
11 the weather change abruptly in the last four months,
12 you realize we are living in a time of ecological
13 crisis.

14 This is the exact wrong time to mow down
15 the forest and build some kind of astroturf
16 grassland. It's also a time when we must support the
17 life of the people instead of, with all respect, give
18 room to those who have passed on.

19 So please embed your technical knowledge of
20 the microcosmic details of the proposed program into
21 your more macrocosmic long-term sustainable picture
22 of supporting the life of the people who live in the
23 45, 46, 47 area, the people who live on the island,
24 and indeed, the people on the whole planet which
25 needs our help now.

1 Thank you for listening.

2 CHAIRPERSON SCHEUER: Thank you for your
3 testimony.

4 Questions?

5 MR. TABATA: No questions.

6 MR. PANG: No.

7 Ms. Apuna: No questions.

8 MR. YOSHIMORI: No questions.

9 CHAIRPERSON SCHEUER: Commissioners?

10 Puanani Akaka, followed by Linda Chang.

11 Please proceed. Sit in the seat behind the
12 witness when your name is called to go next.

13 Followed by Dudley Dias.

14 Do you swear or affirm the testimony you're
15 about to give is the truth?

16 THE WITNESS: I do. Thanks for having us
17 all come out and --

18 CHAIRPERSON SCHEUER: Your name and
19 address.

20 PUANANI AKAKA

21 Was called as a witness by and on behalf of the
22 Public, was sworn to tell the truth, was examined and
23 testified as follows:

24 DIRECT EXAMINATION

25 THE WITNESS: Puanani Akaka, 45-442 Ohaha

1 Street. Our property, my parents' property affects
2 the Hawaiian Memorial Park --

3 CHAIRPERSON SCHEUER: You're a little soft
4 spoken, so you might need to almost kiss the mic.

5 THE WITNESS: I apologize, I'm exhausted.
6 I'm working with the Red Cross and I've been dealing
7 with the Diamond Head tragedy, so I'm a little tired.

8 I just want to, myself, voice to the other
9 two testifiers previous to this, there are a couple
10 of points I wanted to bring up.

11 One, I rather reject the notion that
12 expanding the cemetery will help with Hawaiian
13 cultural practices.

14 I do not know of one ancestor who would be
15 happy that raising a forest of natural habitat will
16 help Hawaiian cultural practices. So I'm opposed on
17 that level.

18 Also one point I want to bring up, while I
19 can understand Hawaiian Memorial's position that
20 they're running out of room, fine, but I have not
21 seen any sort of advertisement or research about
22 better burial practices, nothing like offering
23 perhaps green alternatives, anything that would keep
24 these European burial practices from needing to be
25 done.

1 Have they offered any sort of other options
2 for people that are greener, or that don't require so
3 much land? If they have, I apologize, but I haven't
4 seen it.

5 I haven't seen any other sort of offers
6 about trying to limit the land we need, yet helping
7 families with loved ones, or offering a place to
8 patch the forest. Whether it's, you know, cremated
9 loved ones could be put and (indecipherable) -- I
10 have not seen any sort of advertisement or research
11 offers of that.

12 So I have to question their notion that
13 they need more space. Like I said, I haven't seen
14 any research to keep that from happening. So that's
15 part of the reason why I reject this proposal.

16 CHAIRPERSON SCHEUER: Other questions for
17 the testifier?

18 MR. TABATA: No questions.

19 MR. PANG: No questions.

20 MS. APUNA: No questions.

21 MR. YOSHIMORI: No questions.

22 CHAIRPERSON SCHEUER: Commissioners?

23 Mahalo for your testimony.

24 Next testifier is Linda Chang followed by
25 Dudley Dias.

1 THE WITNESS: Good morning.

2 CHAIRPERSON SCHEUER: Do you swear or
3 affirm the testimony you're about to give is the
4 truth?

5 THE WITNESS: I do. My name is Linda
6 Chang, I live at 45-431 Ohaha Street.

7 LINDA CHANG

8 Was called as a witness by and on behalf of the
9 Public, was sworn to tell the truth, was examined and
10 testified as follows:

11 DIRECT EXAMINATION

12 THE WITNESS: And I'm here to testify
13 against the development Hawaiian Memorial Park for
14 many reasons but I'm just going to limit it to two.

15 One is very important to all of us on that
16 street, the safety of our residents. It rains often,
17 and when there are heavy rains, I have witnessed
18 debris runoff from back of the mountain of Mr. and
19 Mrs. Harrises' property. The son testified this
20 morning. And I feel if we are experiencing that kind
21 of runoff, even with the trees and rocks that are
22 there to hold back the debris and runoff, what is
23 going to happen if those trees are cut down for this
24 development? I think we will be more at risk.

25 And the other concern I have is that I

1 don't feel that Hawaiian Memorial Park have been good
2 stewards of the property that they currently hold.
3 Hawaiian Memorial Park is full of potholes. You have
4 to watch where you walk. You can fall and break your
5 leg.

6 There are manmade streams and ponds there
7 that are overgrown with mold and debris and they're
8 just breeding ground for mosquitoes.

9 I have two plots there, and one plot my
10 parents are buried, two of them are on one parcel.
11 The other parcel is vacant. I approached Hawaiian
12 Memorial Park and asked them how many cremated
13 remains may I put in the vacant lot, and they said
14 four. If I could have, if the rules were changed
15 where I could inter more remains in there, that would
16 be helpful to me.

17 I and my husband plan to be cremated.
18 We've already purchased a cremation plan.

19 I thank you for this opportunity to speak.

20 CHAIRPERSON SCHEUER: Mahalo.

21 Questions for the testifier?

22 MR. TABATA: No questions.

23 MR. PANG: No questions.

24 MS. APUNA: No questions.

25 MR. YOSHIMORI: No questions.

1 CHAIRPERSON SCHEUER: Commissioners?

2 Thank you very much.

3 Dudley Dias, followed by Francis Kau.

4 Do you swear or affirm the testimony you're
5 about to give is the truth?

6 THE WITNESS: That's correct.

7 DUDLEY DIAS

8 Was called as a witness by and on behalf of the
9 Public, was sworn to tell the truth, was examined and
10 testified as follows:

11 DIRECT EXAMINATION

12 THE WITNESS: My name is Dudley Dias. I
13 live at 51-359 Haulele Road in Kaaawa, Hawai'i, but
14 own 45-469 Lipala Street.

15 Since this committee deals with facts,
16 let's talk about facts.

17 Fact one, endangered species.

18 Fact two, Hawaiian cultural preserve heiau
19 birthing rock.

20 Fact three, probably the last remaining
21 watershed on Kaneohe, protected watershed.

22 Once we do development, we cannot turn
23 back. Once it's damaged, it's damaged. We have
24 endangered species already stressed out, their life
25 expectancy.

1 As far as cultural Hawaiian settings, it
2 will never be how the Hawaiians made it in its
3 natural setting.

4 So I like to say, like the one lady said,
5 when you throw a stone in the water it causes
6 rippling effect. This rippling effect is going to
7 affect the whole community from Lipala Street all the
8 way down to Kaneohe Bay as far as the watershed
9 concerned expansion of possibly one of the few
10 remaining Hawaiian species left.

11 As far as the Hawaiian cultural aspect of
12 it, it's going to be more of a tourist attraction
13 than a place of worship.

14 Another thing I like to say too is the
15 terminology that some people use was "finite", and
16 "infinite". Once they build, they going to use it
17 all up, finite. The valley is infinite. Always
18 going to give to endangered species. Going to keep
19 everything in its natural setting, and watershed is
20 going to do what it does best, give the people of
21 Hawai'i the water it needs.

22 On top of that I like to indicate one lady
23 said that, you know, the people of Lipala Street
24 denied access. From the time was ten years old to I
25 was about 67, we have never, ever -- I mean 57 --

1 never, ever denied anyone access to that location.
2 Little trail. Everyone can come clear it, clean it,
3 or worship.

4 CHAIRPERSON SCHEUER: Thank you very much.
5 Questions for the testifier?

6 MR. TABATA: No questions.

7 MR. PANG: No questions.

8 MS. APUNA: No questions.

9 MR. YOSHIMORI: No questions.

10 CHAIRPERSON SCHEUER: You've testified
11 earlier before for the EIS.

12 THE WITNESS: Could I say one thing? Not
13 to be disrespectful, but I didn't appreciate that you
14 called Abercrombie governor. He's not our governor,
15 he's our former governor. And when we put people on
16 pedestals, that's not correct.

17 The piece of paper that I like to call the
18 constitution, it's called "we the people", and that's
19 why we are here today because we the people. Thank
20 you for your time.

21 CHAIRPERSON SCHEUER: Francis Kau, followed
22 by John Puchalski, followed by Alice Hewitt.

23 Do you swear or affirm the testimony you're
24 about to give is the truth?

25 THE WITNESS: I do.

1 FRANCIS KAU

2 Was called as a witness by and on behalf of the
3 Public, was sworn to tell the truth, was examined and
4 testified as follows:

5 DIRECT EXAMINATION

6 THE WITNESS: I'm going to read from this
7 prepared speech --

8 CHAIRPERSON SCHEUER: Could you state your
9 name and address?

10 THE WITNESS: Francis Kau, I live at 1160
11 Ala Napunani Street in Salt Lake, Honolulu.

12 I'd like to read my prepared statement.

13 Aloha and greetings. My name is Francis
14 Anthony Pomaikaionalani Kau. Presently I reside at
15 1160 Ala Napunani Street in Honolulu. However,
16 throughout my entire life, I have lived at 45-412
17 Ohaha Street in Kaneohe, which adjoins the property.

18 Our ancient Hawaiian family name is
19 "Kauloaiwi". Our ancient family name translates to
20 "Keeper of the sacred bones". How appropriate. It
21 is for this reason I must share my mana'o with the
22 Commission.

23 As Hawaiians, the term "aloha 'aina" means
24 the love of the land. Since our earliest arrival to
25 Hawaii, Hawaiians have always been connected and held

1 sacred the 'aina. Land is life. Caring for the land
2 and protecting it was and still is paramount in our
3 duties as inhabitants and stewards of these ancient
4 Hawaiian lands. Aloha 'aina is what we must live by.

5 With this in mind, we must not allow anyone
6 or any business to destroy forever any part of
7 Kawa'ewa'e Heiau Complex and the Kawa Watershed
8 Forest.

9 Keep this valued land in conservation
10 forever. It sits on land that was designated
11 conservation years ago for its cultural importance
12 and supporting watershed. The owners knew this when
13 they purchased the land, it was written in black and
14 white. Aloha 'aina.

15 Consider the following:

16 1) Kawa'ewa'e Heiau Complex was built in
17 the 12th century by Oahu Chief Olopana. This luakini
18 heiau is historically important to the area as well
19 as adjoining heiau within the Ko'olaus to include
20 Mokoli'i (Chinaman's Hat).

21 No part of this heiau complex should be
22 surrendered for the sake of a cemetery. Instead of
23 destroying any part of the heiau complex, let's fully
24 restore all of it.

25 In totality, Kawa'ewa'e Heiau Complex needs

1 to be saved and restored with no strings attached.
2 There have been too many ancient Hawaiian
3 archeological sites destroyed for profit. Let's not
4 let this happen again. Aloha 'aina.

5 2) Kawa Watershed, the area which the
6 heiau complex is situated is an important watershed
7 for the area. It provides precious water for fauna
8 and flora in the area. The Kawa Watershed needs to
9 be protected in perpetuity. What HMP is advocating
10 for is unacceptable. The reckless loss and
11 destruction of the forest canopy alone will be
12 devastation to life and flora currently protected in
13 this conservation land.

14 Also the introduction of chemicals from
15 burying human remains and pesticides seeping and
16 flowing into Kawa Watershed, we should ask "what
17 affect will it have on the land and the water
18 downstream?"

19 The Kawa Watershed feeds into the Kawa
20 Stream that feeds into Kaneohe Bay. What
21 life-changing and environmental effects downstream
22 will unfold because of destruction of Kawa Watershed?
23 It isn't worth gambling our environment's future on.
24 Aloha 'aina.

25 CHAIRPERSON SCHEUER: Three minutes.

1 THE WITNESS: Further, we do know the
2 habitat of the federally-protected Hawaiian
3 black-line damselfly. This also needs to be
4 protected.

5 The fourth thing I'd like to close with is,
6 us as Hawaiians in the area, it's been residents that
7 live off Ohaha Street and Lipoa Street were never
8 asked for our mana'o. No other Hawaiians speak for
9 us that live in the area. It is part of our
10 'ahupua'a and our ability as Hawaiians to be engaged.

11 I would like to close with this.

12 "Ua mau ke 'eia oka aina ika pono." The
13 life of the land is perpetuated in righteousness.

14 Aloha 'aina is engrained in our state
15 motto, in our hearts, and should be practiced daily
16 in our lives. This piece of land is for the living,
17 not for those who have passed on to be with our loved
18 ones. Choose cremation instead.

19 Commissioners, aloha 'aina this land, keep
20 it in Conservation. Aloha 'aina.

21 Mahalo.

22 CHAIRPERSON SCHEUER: Questions for the
23 testifier?

24 MR. TABATA: Yes, thank you.

25 CROSS-EXAMINATION

1 BY MR. TABATA:

2 Q Thank you for your testimony.

3 Just so I'm clear, you are for the
4 protection of Kawa'ewa'e Heiau?

5 A Yes. I sit in opposition to the expansion,
6 correct.

7 Q Thank you.

8 Are you aware that our project has a plan
9 through the cultural preserve to protect the heiau?

10 A Yes, part of it.

11 What I disagree with is destroying any
12 part. It should be kept in whole, not choose and
13 pick which are historical and which we should keep
14 and which we should not keep. It should be kept as
15 all whole, that's why I use the term "complex". It's
16 a whole.

17 If I were a parent and had to choose which
18 child to love more, I love them all. I cannot choose
19 and pick one over the other. So it's all or nothing
20 to protect.

21 But, yes, I've seen your plans.

22 CHAIRPERSON SCHEUER: City and County?

23 MR. PANG: No questions.

24 MS. APUNA: No questions.

25 MR. YOSHIMORI: No questions.

1 CHAIRPERSON SCHEUER: Commissioners?

2 COMMISSIONER CHANG: Aloha, Mr. Kau. Thank
3 you for your testimony. I just want to follow up
4 with the question that was asked.

5 So when you say the heiau complex -- let me
6 ask you.

7 Have you seen the cultural preserve that is
8 being proposed by Hawaiian Memorial Park?

9 THE WITNESS: Yes, ma'am.

10 COMMISSIONER CHANG: Are you saying that
11 portions of the heiau complex are outside of the
12 cultural preserve?

13 THE WITNESS: What I'm saying is that there
14 are some supporters here that no one understands this
15 entire area are filled with archaeological sites that
16 encompass the entire Kawa'ewa'e Complex. What some
17 of them, as I understand, is some archeological sites
18 they're able to bulldoze or remove so that we will
19 get this cultural preserve area.

20 What I'm saying is it should all be saved
21 as one complex.

22 COMMISSIONER CHANG: Just it's your
23 understanding that they are proposing to destroy some
24 of the complex.

25 Now, when you say destroying the complex,

1 are those actually identified historic sites, or are
2 they --

3 THE WITNESS: Yes, they have been. They
4 have been. What I understand, an archaeological
5 survey was completed within the area between Pohai
6 Nani and I think part past Lipoa Street that says --
7 in this area there are at least 13 archaeological
8 sites.

9 What some people are proposing is that we
10 don't need all of them, we can sacrifice parts of it
11 so that we will be able to develop what parts we
12 don't need, archaeologically speaking, and then
13 develop the rest.

14 And what I'm saying, that's wrong. It
15 should be held in perpetuity as one archeological
16 site. Just develop all of it. If part of it says
17 this site was for preparing food, or this part was a
18 heiau, or this part was also a place where food was
19 made. I think if the complex was built as an entire
20 complex, why destroy part of it?

21 COMMISSIONER CHANG: So you're opposed to
22 the destruction of those historic resources that have
23 actually been identified through their archaeological
24 inventory service?

25 THE WITNESS: Yes, ma'am.

1 COMMISSIONER CHANG: Thank you very much.

2 THE WITNESS: You're welcome.

3 CHAIRPERSON SCHEUER: Anything further,
4 Commissioners?

5 Alice Hewitt, followed by Merci Soriano.

6 Do you swear or affirm that the testimony
7 you're about to give is the truth?

8 THE WITNESS: Yes, I do.

9 CHAIRPERSON SCHEUER: State your name and
10 address for the record.

11 THE WITNESS: John Puchalski, 423 Laulima
12 Loop, Kailua.

13 JOHN PUCHALSKI

14 Was called as a witness by and on behalf of the
15 Public, was sworn to tell the truth, was examined and
16 testified as follows:

17 DIRECT EXAMINATION

18 THE WITNESS: I'm here representing my
19 family that we own a small business here in Kaneohe
20 for the past 33 years. And I want to just say that
21 Kaneohe Town was built around Hawaiian Memorial Park
22 Cemetery when it was developed in the late fifties.

23 And a lot of small businesses flourished
24 from their opening in Kaneohe Town. And if it wasn't
25 for Hawaiian Memorial Park being in Kaneohe, a lot of

1 small businesses wouldn't be open today in Kaneohe.
2 And we have been in business for 33 years.

3 I've seen their plan. I approve what they
4 want to do with the expansion. And Hawaiian Memorial
5 Park has been a great member for the small businesses
6 in Kaneohe Town. Thank you.

7 CHAIRPERSON SCHEUER: Thank you for your
8 testimony.

9 Are there questions for the testifier?

10 MR. TABATA: No questions.

11 MR. PANG: No questions.

12 MS. APUNA: No questions.

13 MR. YOSHIMORI: No questions.

14 CHAIRPERSON SCHEUER: Commissioners?

15 The nature of your business is ...

16 THE WITNESS: We are in the flower
17 business.

18 CHAIRPERSON SCHEUER: Thank you very much.
19 Thank you very much for your testimony.

20 Alice Hewitt followed by Merci Soriano.

21 She is the last person signed up to
22 testify. Are there any other individuals wishing to
23 give public testimony other than these two
24 individuals? Aloha.

25 THE WITNESS: Aloha, my name is Alice

1 Hewitt. I live at 45-349 Namoku Street.

2 CHAIRPERSON SCHEUER: Mahalo. I have to
3 swear you in.

4 Do you swear or affirm the testimony you're
5 about to give is the truth?

6 THE WITNESS: I do.

7 ALICE HEWITT

8 Was called as a witness by and on behalf of the
9 Public, was sworn to tell the truth, was examined and
10 testified as follows:

11 DIRECT EXAMINATION

12 THE WITNESS: I stand by my testimony.

13 I live in Hawaiian Memorial Park. They
14 have supported me and my club. And whatever we do,
15 we're very thankful. And that's what I can say about
16 it.

17 CHAIRPERSON SCHEUER: Mahalo. Are there
18 questions for the testifier?

19 MR. TABATA: No questions.

20 MR. PANG: No questions.

21 MS. APUNA: No questions.

22 MR. YOSHIMORI: No questions.

23 CHAIRPERSON SCHEUER: Commissioners?
24 Commissioner Chang.

25 COMMISSIONER CHANG: Aloha, Alice, mahalo

1 for being here. I know -- just mahalo for being
2 here.

3 THE WITNESS: You're welcome.

4 CHAIRPERSON SCHEUER: Our final testifier,
5 Marci Soriano.

6 Do you swear or affirm the testimony you're
7 about to give is the truth?

8 THE WITNESS: Yes.

9 MERCY SORIANO

10 Was called as a witness by and on behalf of the
11 Public, was sworn to tell the truth, was examined and
12 testified as follows:

13 DIRECT EXAMINATION

14 THE WITNESS: My name is Merci Soriano,
15 45-453 Pua Inia Street, Kaneohe, Hawai'i.

16 Aloha Commissioners.

17 Again, my name is Merci Soriano. I am a
18 resident of Kaneohe and I am here in support of
19 Hawaiian Memorial Park Cemetery expansion.

20 I have several family members buried in
21 Hawaiian Memorial Park Cemetery. My husband was born
22 and raised in Kaneohe. My children and my
23 grandchildren are being raised Kaneohe. My husband
24 and I will some day be laid to rest at Hawaiian
25 Memorial Park Cemetery.

1 I want my children, our future generations
2 to be able to have a choice to be with their ohana as
3 well. In our family our religious belief is that we
4 are traditionally buried. This is our religious
5 right.

6 My children and grandchildren should be
7 able to continue to carry on our beliefs. As an
8 active member of our church, I know and understand
9 that our diocese acknowledges cremation, however,
10 there are regulations when you're cremated in the
11 Catholic diocese. You cannot be separated. You
12 cannot be scattered, it is not recognized.

13 Your remains have to be together and either
14 buried in the ground or placed in a niche. There are
15 so many other things that I would like to share with
16 you, but I know I'm limited time.

17 I'm just asking if you allow Hawaiian
18 Memorial Park Cemetery to give us and our future
19 generations freedom of choice. They have to have
20 that choice of final disposition. It shouldn't be
21 made by others to determine that you have to be
22 cremated. It should be our choice. And by allowing
23 them the land expansion that they own will give that
24 generation that chance.

25 Thank you for allowing me to testify.

1 I've learned this from my daughter
2 (Hawaiian spoken.) No task is too great where many
3 hands work together. Mahalo.

4 CHAIRPERSON SCHEUER: Mahalo for your
5 testimony. Questions?

6 MR. TABATA: No questions.

7 MR. PANG: No questions.

8 MS. APUNA: No questions.

9 MR. YOSHIMORI: No questions.

10 CHAIRPERSON SCHEUER: Commissioner Cabral.

11 VICE CHAIR CABRAL: I want to thank you as
12 a personal person. I mean, a large number of people
13 have come for various reasons, and some for
14 employment, some different reasons, but yourself,
15 because you're our last speaker, but also for you and
16 the others for your own personal testimony being
17 whatever side it is, there's so much caring and
18 concern. I appreciate seeing so many different
19 sides. Not really two sides, so many different
20 considerations we have to think about, so I thank you
21 for coming.

22 CHAIRPERSON SCHEUER: Further questions for
23 the testifier? Thank you very much.

24 Are there any other individuals desiring to
25 give public testimony? One other -- two -- one.

1 After this individual I will be closing
2 public testimony for the day.

3 Do you swear or affirm the testimony you're
4 about to give is the truth?

5 THE WITNESS: Yes.

6 CHAIRPERSON SCHEUER: Please state your
7 name and address for the record and proceed.

8 MAILE HOLMES

9 Was called as a witness by and on behalf of the
10 Public, was sworn to tell the truth, was examined and
11 testified as follows:

12 DIRECT EXAMINATION

13 THE WITNESS: Aloha, my name is Maile
14 Holmes, address 1014 Kinau Street from the Center for
15 Biological Diversity, and I'm here in opposition of
16 the proposal because I believe it should be denied.
17 It's likely to cause unpermitted take of the
18 damselfly. Thank you.

19 CHAIRPERSON SCHEUER: Are there questions
20 for the testifier?

21 MR. TABATA: No questions.

22 MR. PANG: No questions.

23 MS. APUNA: No questions.

24 MR. YOSHIMORI: No questions.

25 CHAIRPERSON SCHEUER: Commissioners?

1 Commissioner Okuda.

2 COMMISSIONER OKUDA: Can you identify the
3 organization you're with?

4 THE WITNESS: Center for Biological
5 Diversity.

6 COMMISSIONER OKUDA: Can you explain what
7 that center, or if the center is affiliated with
8 another institution? I'm not familiar with your
9 organization, so I'm trying to put some bearing on
10 who you're speaking on behalf of.

11 I mean, are you affiliated with like a
12 teaching institution? Is it a private nonprofit, is
13 it a for-profit institution?

14 THE WITNESS: It's a private nonprofit.

15 COMMISSIONER OKUDA: 501(c)(3)?

16 THE WITNESS: Yes.

17 COMMISSIONER OKUDA: Thank you.

18 CHAIRPERSON SCHEUER: Further questions for
19 the witness?

20 Are you a biologist?

21 THE WITNESS: No, I'm a law student.

22 CHAIRPERSON SCHEUER: So you wouldn't be
23 able to speak to the chance that in an isolated
24 population -- (indecipherable)? You're just a law
25 student rather than biologist, so you would not be

1 able to speak to the statistical likelihood of what
2 the statistical likelihood is that an isolated
3 population of a species might simply go extinct
4 (indecipherable).

5 So for instance, for in one generation all
6 the offspring are male, which can happen, you're not
7 qualified to speak to that?

8 THE WITNESS: No, I'm not qualified to
9 speak to that, but I think I'm more qualified to
10 speak to the fact that that land is Conservation
11 District and the law is here protect the species.

12 CHAIRPERSON SCHEUER: Thank you. Anything
13 further, Commissioners?

14 If not, thank you for your testimony.

15 That's our last public testifier. We are
16 now proceeding prior to our lunch break with the
17 admission of exhibits.

18 Mr. Tabata, will you please describe your
19 exhibits you wish admitted into the record?

20 MR. TABATA: Thank you, Chair.

21 Petitioner is asking for the admission of
22 Exhibits 1 through 53, and those exhibits contain the
23 information regarding the issues of this case
24 including drainage, runoff, endangered species,
25 engineering, and all of the areas addressed in the

1 EIS of the Petition. And, therefore, we request
2 admission of those exhibits.

3 CHAIRPERSON SCHEUER: Thank you, Mr.
4 Tabata.

5 Are there any objections to Petitioner's
6 Exhibits 1 through 53?

7 MR. PANG: No objection.

8 MS. APUNA: No objection.

9 MR. YOSHIMORI: No objection.

10 CHAIRPERSON SCHEUER: Commissioners? If
11 not, Petitioner's Exhibits 1 through 53 are admitted
12 into the record.

13 (Petitioner's Exhibits 1 through 53 were
14 received into the record.)

15 County, please describe your exhibits.

16 MR. PANG: It's not identified as a number
17 or exhibit, but it's the Ko'olaupoko Communities Plan
18 adopted in August of 2017. It's required by state
19 law, county law. It's determined and recognized and
20 anticipates major problems and opportunity in the
21 Ko'olaupoko area.

22 CHAIRPERSON SCHEUER: We will refer to City
23 and County of Honolulu as Exhibit 1.

24 Are there objections to Exhibit 1 being
25 accepted into the record, Petitioner?

1 MR. TABATA: No objection.

2 MS. APUNA: No objection.

3 MR. YOSHIMORI: No objection.

4 CHAIRPERSON SCHEUER: County's Exhibit 1,
5 as stated, is admitted into the reported.

6 (County's Exhibit 1 was received into the
7 record.)

8 Ms. Apuna?

9 MS. APUNA: Office of Planning submits its
10 Exhibits 1 through 9 as provided in the submittal for
11 January 22nd.

12 CHAIRPERSON SCHEUER: Are there objections
13 to Office of Planning's admission into the record
14 Exhibits 1, 2, 2-A and 3 through 9. Petitioner?

15 MR. TABATA: No objection.

16 MR. PANG: No objection.

17 MR. YOSHIMORI: No objection.

18 CHAIRPERSON SCHEUER: Office of Planning's
19 Exhibits are admitted into the record.

20 (Office of Planning's Exhibits 1, 2, 2-A,
21 and 3 through 9 were received into the record.)

22 Mr. Yoshimori.

23 MR. YOSHIMORI: Intervenors would like to
24 submit our Exhibits 1 through 14.

25 CHAIRPERSON SCHEUER: Are there any

1 objections to the Intervenor's Exhibits being entered
2 into the record 1 through 14? Petitioner?

3 MR. TABATA: No objection.

4 MR. PANG: No objection.

5 MS. APUNA: No objection.

6 CHAIRPERSON SCHEUER: Commissioners? If
7 not, Intervenor's Exhibits 1 through 14 are admitted
8 into the record.

9 (Intervenor's Exhibits 1 through 14 were
10 admitted into the record.)

11 We are going to take a break. I'm going to
12 ask for a motion before we take a break for
13 Commission to go into executive session, as stated on
14 the agenda, to consult with our board's attorney
15 regarding certain litigation that is before us.

16 My intention is to reconvene these
17 proceedings at 1:30 p.m. Are there any concerns or
18 comments from the Parties?

19 MR. PANG: Public testimony was closed?

20 CHAIRPERSON SCHEUER: Correct. Any other
21 comments or questions from the Parties?

22 COMMISSIONER WONG: Chair.

23 CHAIRPERSON SCHEUER: Commissioner Wong.

24 COMMISSIONER WONG: Just a question
25 regarding executive session. If it goes longer, how

1 will we inform the Petitioner, OP, County and the
2 Intervenor?

3 CHAIRPERSON SCHEUER: So the question from
4 Commissioner Wong is if our executive session goes
5 beyond 1:30, how will you know.

6 Sorry, Mr. Executive Officer, where are we
7 meeting for executive session?

8 So if we are not here at 1:30, we are still
9 in executive session. For the public's record, if we
10 are done earlier, we will adjourn out of executive
11 session, but not reconvene into public session prior
12 to 1:30.

13 May I have a motion, Commissioners?
14 Commissioner Cabral.

15 VICE CHAIR CABRAL: I move that we go into
16 executive session to review Hawai'i Revised Statute
17 Section 92-5A-4 and to consult with the attorney
18 regarding the Commission's powers, duties,
19 privileges, immunities and liabilities regarding
20 Petitioner's appeal from the Commission order Denying
21 Petition of the Declaratory Order filed with the
22 supreme court in Docket No. SP19-0000830.

23 CHAIRPERSON SCHEUER: Is there a second?

24 COMMISSIONER WONG: Second.

25 CHAIRPERSON SCHEUER: There is a motion

1 before us to go into executive session. Any
2 discussion on the motion? If not, all in favor say
3 "Aye". Anybody opposed?

4 The Commission will go into executive
5 session. Before we do, I would like to personally
6 thank the very large audience here for the tremendous
7 knowledge, respect and thoughtfulness about time that
8 you've shown this morning.

9 We are going into executive session.

10 (Executive session and noon recess.)

11 CHAIRPERSON SCHEUER: We are back in
12 session. We've concluded public testimony. Exhibits
13 have been placed into the record.

14 Mr. Tabata, you can proceed with the
15 presentation of your case if you want to give us --
16 we certainly have your witness list, but if you want
17 to give us a sense of how you want to spend our time
18 together this afternoon, that would be helpful.

19 MR. TABATA: Thank you, Chair.

20 We will be starting with the first witness,
21 Mr. Ezer. After Mr. Ezer we have Jay Morford,
22 President of Hawaiian Memorial.

23 I believe it's been mentioned that Tom
24 Holliday, our market expert, is not available today.
25 He had a medical emergency.

1 Also Robin Lim our geologist, he will not
2 be available in April, so depending on how much
3 progress we make, we may be having him maybe second
4 or third.

5 After that we have Jami Hirota, Tom Nance,
6 Steven Montgomery, Steve Spengler, and I'm doubtful
7 that we'll get beyond that today.

8 CHAIRPERSON SCHEUER: As you know, and I'll
9 say for the benefit for members of the audience, we
10 have Commissioners who are statutorily required to be
11 here from each county. So our Hawai'i Island and
12 Maui Commissioners have flights that start to leave
13 at about 4:50 today, so we will probably get through
14 two one-hour blocks at a time before we have to
15 adjourn for today.

16 As you indicated, Mr. Tabata, obviously
17 your case, not to mention the presentations by the
18 City, and Office of Planning, and Intervenor remain
19 to have to come at a date we collectively determine.

20 Do you swear or affirm the testimony you're
21 about to give is the truth?

22 THE WITNESS: I do.

23 SCOTT EZER

24 Was called as a witness by and on behalf of the
25 Petitioner, was sworn to tell the truth, was examined

1 and testified as follows:

2 DIRECT EXAMINATION

3 THE WITNESS: For the record, my name is
4 Scott Ezer, principal in the planning firm of HHF
5 Planners, dba Helber Haster & Fee Planners, Inc., 733
6 Bishop Street, Suite 2590, Honolulu, Hawai'i 96813.

7 BY MR. TABATA:

8 Q Scott, did you prepare the Final
9 Environmental Impact Statement for this project?

10 A Yes. The Final EIS was prepared under my
11 supervision.

12 Q Is that Exhibit 6?

13 A It is Petitioner's Exhibit 6, that is
14 correct.

15 Q Thank you.

16 Did you also prepare written testimony at
17 my request?

18 A I did. That is Petitioner's Exhibit 29.

19 Q Thank you.

20 Would you please describe for the
21 Commission your professional background?

22 A Education, received a degree in sociology
23 from the University of California at Berkeley in
24 1977. Received a master's degree in urban and
25 regional planning from the University of Hawai'i in

1 -- I'm sorry, I graduated from Cal in '74. I
2 graduated from UH Manoa in 1977.

3 Following my educational career, I started
4 professional planning with the Department of Land
5 Utilization, now known as the Department of Planning
6 and Permitting with the City and County in 1978.

7 I worked there for 12 years. Worked on a
8 wide variety of planning assignments within the
9 department, including processing wide variety of
10 development permits, reviewing EISs. And in the
11 latter part of my career with the Department
12 responsible with two other people for writing the
13 current zoning ordinance for the City and County of
14 Honolulu, the Land Use Ordinance.

15 In 1989 I joined my present firm where I've
16 been for -- going on -- I just made my 30th
17 anniversary. And over the course of that time, I
18 have prepared dozens of environmental impact
19 statements or environmental assessments.

20 I've appeared before this body numerous
21 times. And in the course of what I've been doing in
22 the private sector, I have had many county clients.
23 I've done planning work for Kaua'i County on their
24 zoning ordinance and on a transient vacation rental
25 law.

1 I have been the principal in charge for the
2 preparation of two sustainable community plans for
3 the City and County of Honolulu, including the North
4 Shore and Ko'olauloa.

5 I was a principal in charge for an update
6 to the County General Plan, which is currently before
7 the City and County of Honolulu for adoption, and
8 also the principal in charge for the work done on
9 behalf of the City and County to identify important
10 agricultural land within the City and County, which I
11 believe it is awaiting hearing before this body.

12 Q Thank you.

13 Mr. Chair, Petitioner requests that Mr.
14 Ezer be admitted as an expert in the field of
15 planning and land use.

16 CHAIRPERSON SCHEUER: Any objection from
17 Parties or Commissioners?

18 MR. PANG: No objection.

19 MS. APUNA: No objection.

20 MR. YOSHIMORI: No objection.

21 CHAIRPERSON SCHEUER: So admitted.

22 MR. TABATA: Thank you.

23 Q Scott, would you please summarize your
24 written testimony for us?

25 A Certainly.

1 As you have my written testimony, I'm not
2 going to read it. There are some things that I would
3 like to focus on, and I'm sure that as I conclude my
4 testimony, you're going to have some questions for
5 me.

6 What I would like to focus on are some of
7 the aspects of the work that was prepared for this
8 project under the environmental impact statement.
9 Mr. Tabata already went through the names of the
10 folks that are scheduled to appear as witnesses on
11 behalf of this Petition, but they involved some very
12 detailed studies that have been done on the Petition
13 Area, including a market study and economic analysis,
14 potential rockfall and slope hazard assessment,
15 preliminary engineering report, which includes
16 grading and drainage -- and I know that's a
17 significant interest to the Commission -- botanical
18 resources assessment, and avian and terrestrial
19 mammalian survey, a native invertebrate resources
20 survey, an assessment of potential impact on
21 groundwater, water quality report on impacts to Kawa
22 Stream and to Kaneohe Bay, an archaeological
23 inventory survey, a cultural impact assessment, an
24 environmental noise assessment, a traffic impact
25 analysis report, an analysis and determination of

1 jurisdictional waters with respect to the United
2 States government.

3 So as you can see, we've done a lot of
4 work, and you will get the benefit of hearing from
5 the folks that prepared those studies.

6 I may be able to answer some general
7 questions regarding those studies, but I will most
8 likely defer any specific questions on findings and
9 outcome to the preparer's of those reports.

10 As has been testified earlier this morning,
11 Hawaiian Memorial Park is a full-service cemetery
12 that has been at its present location since 1958. It
13 is the final resting place for over 41,000 people.
14 The 80 acres are initially started with the six-acre
15 increment, and the last portion of Hawaiian Memorial
16 Park that was developed was Ocean View Garden which
17 was the site of Commission's site visit a couple
18 months ago, I believe.

19 Hawaiian Memorial Park is adjacent to the
20 Hawai'i State Veteran's Cemetery. The Veteran's
21 Cemetery is 122.5-acre piece of property, which
22 initially consisted of 89-and-a-half acres that was
23 owned by the State of Hawai'i. The location of the
24 Veteran's Cemetery was the result of a detailed
25 analysis of available sites on the Island of Oahu to

1 replace availability of a final resting place for
2 Veterans, as Punchbowl Cemetery was running out of
3 space.

4 An adjacent 33 acres to the 89.5 acres
5 owned by the State was donated to the State of
6 Hawai'i by Hawaiian Memorial Life Plan, Ltd., in
7 order for Hawai'i State Veterans Cemetery to qualify
8 for funding under guidelines issued by the veterans
9 group in Washington.

10 Without that donation, the Veterans
11 Cemetery today would not exist.

12 The proposed action as part of this
13 Petition includes a plan that has evolved over the
14 last ten years since a previous iteration was not
15 approved by the Commission in 2010.

16 Since that time, the Petitioner has had
17 many meetings over the years, and I will go into more
18 detail about the community and public outreach that
19 we have done, but we have met many times with the
20 Kaneohe Neighborhood Board, with community members,
21 government agencies and other organizations to
22 address the concerns that have been associated with
23 the previous plans, and also to inform the manner in
24 which this plan has evolved.

25 The proposed expansion has also been

1 incorporated -- and this is an important concept --
2 in the City's updated Ko'olaupoko Sustainable
3 Community Plan.

4 It was revised -- the plan, the City's plan
5 was revised by adoption of Ordinance 1742 by City
6 Council in August 2017, and if my memory serves me
7 correctly, it was entered as Exhibit 1 for the City
8 and County of Honolulu.

9 I will have more on the sustainable
10 community's plan later in my testimony.

11 The Petition Area of about 53.45 acres is a
12 portion of a larger 164.4-acre parcel owned by
13 Hawaiian Memorial Life Plan, Ltd.

14 The existing site and a general location
15 map -- I'm not sure you have a copy of the EIS with
16 you -- but we have Figure 1.2 from the EIS available
17 in a post up here in a moment, and it is on page 18
18 of Petitioner's Exhibit 6 of the Final EIS.

19 Of the 53-acre Petition Area, 28.2 acres,
20 which is that allowable under the sustainable
21 communities plan, would be for cemetery use.

22 7.75 acres would consist of internal
23 roadways; three acres for other open space, and
24 14-and-a-half acres for the establishment of a
25 cultural preserve.

1 Figure 2-2 on Page 2-23 of Petitioner's
2 Exhibit 6 presents a conceptual plan for the entire
3 cemetery operation.

4 The remainder of this parcel, approximately
5 103 acres, would be left undeveloped.

6 The conceptual plan is consistent with
7 modern cemetery planning objectives, including
8 consideration of views, maximizing walkable terrain,
9 and addressing feng shui issues which are important
10 cultural considerations in Hawai'i.

11 There is a need to establish a long-term
12 stewardship and responsibilities for that stewardship
13 for the 156 acres outside of Ocean View Garden which
14 includes the Petition Area.

15 In an effort to bring some clarity to how
16 that would be managed, the Petitioner proposes to
17 establish a Conservation Easement on the entire
18 property which would cover the cemetery expansion
19 area, the cultural preserve, and the 100 acres
20 between the cultural preserve and Pohai Nani
21 residential community.

22 For those of you not familiar with
23 conservation easements, they are covered by the state
24 statute, Chapter 198 Hawai'i Revised Statute, and
25 they are for very specific reasons.

1 They must be held by 501(c)(3) operation
2 and in perpetuity. Once the easement is executed and
3 it's recorded with the Bureau of Conveyances, the
4 Petitioner cannot undo the Conservation Easement.
5 It's there forever.

6 In areas that are buffer areas and would
7 remain undeveloped, this area includes a small seep,
8 which is not a stream, it's a very limited supply of
9 water that flows downhill. And this would -- it
10 serves as habitat for the endangered black-line
11 Hawaiian damselfly. Many people have testified to
12 that effect. We're not disputing that. And I think
13 as we move through the Petitioner's case, and you
14 will hear from our other experts, we have done an
15 amazing job of understanding the habitat and
16 identifying ways in which the development can proceed
17 and ensure that this habitat is preserved and that
18 the damselfly is given their best opportunity for its
19 future in this habitat.

20 This habitat is one of 17 habitats
21 throughout Oahu, mostly in the upper reaches of
22 Ko'olau where the damselfly can be found.

23 I'm not going to go through -- there is
24 some information in my testimony related to
25 engineering and grading. It's already in the record,

1 and I will leave that to our civil engineer to
2 discuss in more detail.

3 There's also a significant portion of my
4 written testimony that addresses the standards for
5 determining Urban District boundaries. We have
6 addressed each one of the requirements that are
7 listed in the rules.

8 Again, I won't go through each and every
9 one of these for the Commissioners. It is part of
10 the written testimony, and we stand by our assertion
11 that the Petition is consistent with the standards
12 for determining Urban District boundaries.

13 With respect to community outreach -- and I
14 know this is an important consideration for members
15 of the Commission as well as it is for members of the
16 community.

17 There have been numerous different arenas
18 that have been available to consider this project
19 both as an amendment to the sustainable community's
20 plan and otherwise in general, including
21 consideration of the environmental impact statement.

22 The City and County Department of Planning
23 and Permitting have three community meetings with
24 regard to the Ko'olaupoko Sustainable Communities
25 Plan Update. They occurred in November 2009,

1 September of 2010 and November of 2014.

2 The project team, including the Petitioner,
3 has appeared numerous times at different venues
4 overseen by the Kaneohe Neighborhood Board. We
5 appeared before the Agenda Planning Committee in May
6 of 2017, full board meeting on May 17, 2017, a
7 subsequent Agenda Planning Committee in July of 2017,
8 a full board meeting in August of 2017 and September
9 of 2017, a Planning Committee Meeting in October of
10 2018, and another full board meeting in October of
11 2018.

12 We have appeared every time the
13 neighborhood board has requested that we be present,
14 and in some instances we have requested to be on the
15 board's agenda.

16 There was a public hearing on the
17 Sustainable Communities Plan, as you heard earlier
18 from former Chair Hazama, that occurred July 16,
19 2016. We appeared at the City and County of Honolulu
20 City Council Transportation and Planning Committee
21 for the purposes of the update to Ko'olaupoko
22 Sustainable Communities Plan.

23 On February 1st of 2017 there was a full
24 council public hearing on February 22nd, 2017.
25 Subsequent Transportation Planning Committee meeting

1 on August 1st, 2017, and full council third reading
2 and adoption of the Ko'olaupoko Ordinance 1742 on
3 August 9th, 2017.

4 In addition to these meetings, the members
5 of the project team met on July 19th, 2017, with
6 three of the Intervenors in a private meeting that
7 was intended to discuss issues of concern and try to
8 explore ways that the project could move forward with
9 a mutual consensus on getting the project approved.

10 As you are aware, that meeting did not
11 result in a meeting of the minds, hence we are here
12 today with the Intervenors.

13 With respect to the Koolaupoko Sustainable
14 Communities Plan -- and this is an important issue --
15 because it will be a key, I believe, element of the
16 case that will be brought by the Intervenors, as they
17 intend to make a claim that this project is not
18 consistent with the Ko'olaupoko Sustainable
19 Community's Plan.

20 It is my considered opinion that the
21 project is consistent with the Sustainable
22 Communities Plan, and it should be noted that the
23 Department of Planning and Permitting has
24 consistently testified both at the City and County of
25 Honolulu City Council, and before this Commission,

1 that the proposed project is consistent with the
2 KPSCP.

3 In fact, in their most recent statement of
4 position regarding this docket, the Acting Director
5 of DPP emphatically supported this position.

6 And if you'll indulge me, I'll read a
7 portion of that position statement.

8 "The DPP testified before the Land Use
9 Commission on April 23rd, 2019, that the project is
10 consistent with City Ordinance No. 1742 Ko'olaupoko
11 Sustainable Communities Plan dated August 2, 2017.

12 The KPSCP, which is not a regulatory
13 document, sets forth regional land use policies and
14 guidelines, and specifically indicates that the
15 Petitioner's lands are proposed for cemetery
16 expansion. The 28.2-acre expansion of the cemetery,
17 and 14.5 acres for the proposed Kawa'ewa'e Heiau
18 Cultural Preserve are included within the KPSCP's
19 community's growth boundary.

20 In addition, pursuant to Section 3.1.3
21 elements of open space of the KPSCP. Guidelines for
22 cemeteries emphasize very low life coverage ratios,
23 minimally visible above-grade structures, measures to
24 mitigate, reduce, or rectify adverse impacts on the
25 sentient species over the environment. And specific

1 to any proposed expansion of Hawaiian Memorial Park,
2 a 150-foot buffer from homes, a 2000-foot buffer from
3 Pohai Nani Senior Living Community, and a phased
4 approach to cemetery internment so that the land
5 adjacent to the residential homes on Lipala Street
6 are the last to be used in order to minimize
7 potential impact to the neighboring residents.

8 And I might add, in testimony that Acting
9 Director Sokugawa submitted subsequent to their
10 position statement, they follow a similar train of
11 logic.

12 As stated in furtherance of the notion that
13 the KPSCP is not regulatory, but policy driven, DPP
14 further explains:

15 As stated in the adopting ordinance of the
16 KPSCP in Section 24-6.2, subparagraph small c of the
17 Revised Ordinances of Honolulu, quote:

18 The provisions of this article and the
19 Ko'olaupoko SCP are not regulatory, rather they are
20 established with the explicit intent of providing a
21 coherent vision to guide all new public and private
22 sector development within Ko'olaupoko.

23 As we stated HHF, in a letter to DPP on
24 March 29, 2019, the purpose of the SCP in general are
25 discussed in the Honolulu City Charter.

1 Under Section 6-1509 of the charter,
2 development plans, of which the SCPs are considered
3 underneath the general plans -- development plans,
4 consist of, quote, conceptual schemes for
5 implementing and accomplishing the development
6 objectives and policies of the City's General Plan.

7 Further, these plans are to describe the
8 desired urban character and significant natural and
9 scenic and cultural resources for the several parts
10 of the City to a degree which is sufficient as to
11 serve as a policy guide.

12 These are key concepts. As we continue, we
13 will continue the discussion of the SCP during the
14 deliberation of this docket.

15 I would specifically like to address the
16 issue related to language in the SCP that discusses a
17 2000-foot buffer from the Pohai Nani Senior Living.

18 Q Excuse me, Scott. Before we get to the
19 2000-foot buffer and the diagrams depicting that
20 buffer, could you quickly go over the conceptual plan
21 and show the Commission the different parts of the
22 project, including the cultural preserve and
23 expansion area and the Petition Area?

24 CHAIRPERSON SCHEUER: Any chance that easel
25 can go over a few feet to my left.

1 THE WITNESS: Excuse my back for a moment.

2 So the area in light green represents the
3 area that would be encumbered by the proposed
4 cemetery expansion itself. So that would be the
5 burial plots, the roadways, the infrastructure
6 related to the cemetery.

7 The area outlined in yellow/orange line, I
8 don't know if you can make that out, that's this
9 (indicating). That represents the Petition Area. So
10 that's the 53.45 acres that comprise the Petition
11 Area.

12 The area with no color just above the
13 cemetery represents the cultural preserve, that's
14 about 14.5 acres.

15 The area in light gray within the cultural
16 preserve shows the location of the Kawa'ewa'e Heiau,
17 that's not the only archaeological feature or
18 historic site within the cultural preserve, but it is
19 the most dominant and largest. So I wanted to point
20 out where that is.

21 The remainder of the area above where the
22 cemetery expansion is going to be, which is basically
23 between Ohaha Place and Lipala Street is the 150
24 foot, the minimum 150-foot buffer area between
25 adjoining residential.

1 MR. TABATA: Thank you.

2 CHAIRPERSON SCHEUER: Commissioner Cabral.

3 VICE CHAIR CABRAL: I love maps and
4 pictures. We came on a site visit there. Can you
5 point out to me about where we were standing so I can
6 put it in my brain better?

7 THE WITNESS: The Petition Area adjoins the
8 Ocean View Garden area which is where the site visit
9 occurred. I'm not sure you can see this, but in the
10 lower left-hand corner is the very edge of Ocean View
11 Garden. So you were standing approximately where I
12 just have the laser pointer.

13 VICE CHAIR CABRAL: Thank you.

14 That is proportionate to where we were
15 looking then, otherwise I was upside down. Thank
16 you.

17 THE WITNESS: On June 9th, 2017, HHF
18 submitted a memo to the City Council Transportation
19 Planning Committee at the -- this was in preparation
20 for the upcoming committee meeting to discuss the
21 update to the sustainable community plan.

22 We submitted a revised conceptual plan that
23 proposed only 28.2 acres of the cemetery would be for
24 the cemetery expansion that we would establish a
25 cultural preserve and create a conservation easement

1 over the property. And we proposed and, again, I'm
2 putting emphasis on this word, an approximate
3 2000-foot buffer from the Pohai Nani residential
4 tower that would provide mitigation for its
5 residents.

6 This memorandum was given a communication
7 number of M3552 by the Honolulu City Council, and
8 this is attached to my written testimony, what we
9 have put up here on the board.

10 This first slide is the cover slide to the
11 presentation we gave to the City Council. It has a
12 time stamp on it. I'm sure you can't see it on here,
13 but if you have my written testimony, you can see it
14 was time stamped in by City Council, and the
15 adjoining slide to the right is the slide that we
16 show the City Council to depict what the new plan
17 would look like, and it had a number of bulleted
18 points identified that conveyed the essence of the
19 plan.

20 In addition to that, there's a red arrow on
21 the slide which runs from the midpoint of the Pohai
22 Nani Residential Tower to the edge of the cemetery.
23 And it's identified as 2000 feet. And in the
24 bulleted items on the slide, the word "approximate"
25 appears.

1 We never made a presentation to the City
2 Council that indicated that the 2000-foot buffer
3 would be measured from the property line of Pohai
4 Nani and the land owned by Hawaiian Memorial Life
5 Plan Ltd.

6 So in an effort to document the actual
7 buffer distance between the cemetery, proposed
8 cemetery, and the midpoint of the Pohai Nani
9 Residential Tower, we used some very sophisticated
10 computer graphics, including something our GIS --
11 which is geographic information and spatial software
12 that has accuracy to less than one foot -- and we
13 took 32 lines from Pohai Nani midpoint to the various
14 edges of the cemetery expansion.

15 So that is a picture on the left, and if
16 you have my written testimony, it's identified as
17 Exhibit SE-2.

18 And when we took the median of all of those
19 points, the median distance between the center point
20 of the Pohai Nani Residential Tower and the edge of
21 the cemetery is over 2100 lineal feet.

22 CHAIRPERSON SCHEUER: Actually, the mean.

23 THE WITNESS: The mean, yes, the mean.

24 Thank you, Chair.

25 Q (By Mr. Tabata): When you say "cemetery",

1 you're referring to cemetery expansion area?

2 A Correct.

3 Q Thank you.

4 A That's one aspect of what that buffer is.
5 It's a factual measurement of a physical separation
6 between the edge of the proposed cemetery and the
7 residential tower.

8 Now, we were under the impression, we have
9 been in the public realm discussing this project for
10 many years and we have heard many times from the
11 residents of Pohai Nani that they were upset about
12 the prospect of having a cemetery within view of
13 their residential units.

14 So the issue from our perspective had been
15 that folks wanted a visual, not just a physical
16 separation, but a visual separation between where
17 they lived and the cemetery, meaning how far away was
18 the cemetery that they could see.

19 So, again, we used some very sophisticated
20 computer technology and we set up a terrain model
21 using GIS software between the upper floors, top
22 floor of Pohai Nani Residential Community, which we
23 assume to be at approximately 130 feet above grade at
24 the Pohai Nani site.

25 We then, using topography and making an

1 assumption about the height of the tree canopy,
2 because you can't see through a tree, you have to
3 look above the tree, what could an individual
4 actually see from the 14th floor of the Pohai Nani
5 Tower, and that's even assuming you're looking
6 directly at the proposed cemetery expansion.

7 I should have also pointed out that the
8 access of the Pohai Nani Residential Tower does not
9 look directly toward Hawaiian Memorial Park, it looks
10 off to the side.

11 Nevertheless, we then took those same 32
12 lines that we analyzed in terms of how far the
13 proposed cemetery was physically from the tower, and
14 we were able to identify the so-called view shadow or
15 where you would first get to see the elements of the
16 cemetery from that 14th floor residence.

17 And as a result of those 32 lines that were
18 drawn, that is my Exhibit 3, and that's to the right
19 of the first exhibit, it shows a mean distance to the
20 viewable area of the cemetery of over 2700 feet. So
21 the area that you're looking at in this exhibit,
22 which is in light green, is the area that you can see
23 from the 14th floor. The area that is unhighlighted
24 you would not be able to see from the 14th floor of
25 the tower.

1 And I would finally add, that as you go
2 down each succeeding floor of the tower, the area of
3 the cemetery you can see is less and less, because
4 the viewing angle that you would have to the trees,
5 to the topography, gets less elevated eventually and
6 the cemetery expansion would disappear.

7 Finally, this will conclude this portion of
8 my testimony. I want to read into the record that --
9 I want to make sure everybody understands that the
10 Petition Area is desirable and suitable for Urban
11 purposes, and that the design and construction
12 controls, as adopted by any federal, state or county
13 agency add quality to protect public health, welfare
14 and safety, and the public interest and the esthetic
15 quality of the landscape.

16 Q Thank you, Scott.

17 If you could quickly talk about HRS section
18 205-4(h), that's the section in 205 that requires
19 boundary amendments to be reasonable, not violative
20 of section 205-2, and part three, be consistent with
21 the policies and criteria in sections 205-16 and
22 205-17.

23 Did you get a chance to review that section
24 in connection with this project?

25 A Yes, I did.

1 Q What was your observation with respect to
2 whether our project was violative of 205-2 or part
3 three?

4 A I concluded that HRS 205-2 establishes the
5 four land use districts. It provides the Urban
6 District shall provide uses provided by ordinances of
7 the County which is the case here. Cemetery use is
8 provided for in the City's zoning code, so the
9 project is not violative of 205-2.

10 Part three is the important agricultural
11 lands, and the Petition Area is not designated as IAL
12 and are not identified by the city as recommended
13 IAL, so not violative of part three.

14 Q Is the project consistent with HRS 205-16?

15 A It is. 205-16 requires compliance with the
16 Hawaii State Plan, and the project is in compliance
17 with the State plan. A detailed analysis of that
18 conclusion is included in the Final EIS.

19 Q With respect to 205-17, what is your
20 understanding of that statute?

21 A 205-17 includes the LUC decision-making
22 criteria which identifies several factors that need
23 to be considered, including State and County plans,
24 IAL district standards as well as environmental,
25 cultural and economic concerns.

1 Q Is our project consistent with those
2 standards?

3 A It is. And those were also discussed in
4 the EIS, except for housing opportunities and the
5 reclassification of IAL, because these were not
6 pertinent to the project.

7 Q Thank you.

8 MR. TABATA: Mr. Ezer is now available for
9 questions.

10 CHAIRPERSON SCHEUER: Thank you very much.
11 We'll start with County.

12 CROSS-EXAMINATION

13 BY MR. PANG:

14 Q My name is Duane Pang, Deputy Corporation
15 Counsel representing the City and County of Honolulu.

16 Mr. Ezer, can you go over the calculation
17 of the 2000-foot buffer once again?

18 A Certainly. The physical separation or the
19 visual separation?

20 Q Physical separation.

21 A We started, similar to the presentation we
22 made to the Transportation Planning Committee, we
23 started with the physical midpoint of the tower of
24 the Pohai Nani Residential Tower. We couldn't take
25 an infinite number of lines. We took what we felt

1 was representative of lines along the entirety of the
2 edge of the cemetery expansion, and measured the
3 distance from that point at the edge of the cemetery
4 back to the midpoint of the Pohai Nani Residential
5 Tower.

6 Q And this presentation was made to the
7 council committee?

8 A At this point in time we had not prepared
9 this exhibit. The presentation that we made to the
10 Council committee included a slide that identified
11 the separation between the midpoint of the Pohai Nani
12 Residential Tower to the edge of the cemetery as
13 approximately 2000 feet.

14 Q That was just one line or less than one
15 line?

16 A It was a generic -- at that point there was
17 not a request to -- sense we had provided an
18 estimate, an approximation of that distance, there
19 was no question given to us as to exactly how much it
20 would be. And we felt that the 2000-foot buffer was
21 sufficient as an approximation of the separation.

22 Q Now, with respect to the 100-foot buffer
23 for residential homes, was that presented to the
24 Council committee?

25 A It was 150 feet, not 100, and, yes, it was

1 presented to the council committee.

2 Q Now, as you indicated, the Ko'olaupoko
3 Sustainable Communities plan significantly mentions
4 Hawaiian Memorial Park expansion.

5 So I'm assuming that you made these
6 presentations to all of the community meetings?

7 A That is correct.

8 Q With respect to both the identified buffer
9 zone, is there any plan to make use of those areas,
10 or are they just going to be untouched?

11 A They will be left in open space.

12 Q Open space. Is there going to be --

13 A There will be no development.

14 Q Is there any identification of the parties
15 to the easement at this time, the Conservation
16 Easement at this time?

17 A We have presented -- I believe it's an
18 exhibit -- the letter of intent to the Hawaiian
19 Islands Land Trust to be the receiving entity for the
20 easement.

21 Q Will they also be the managing entity?

22 A That is correct. They would hold the
23 easement, and they would be responsible for how
24 everything within the easement is conducted.

25 Q Would the easement include public access to

1 those areas?

2 A The cultural preserve is intended to be
3 managed by the Koolaupoko Hawaiian Civic Club. There
4 will be a specific management plan developed for the
5 cultural preserve that will govern access to the
6 cultural preserve, and that would be administered by
7 the Ko'olaupoko Hawaiian Civic Club.

8 Q So you're saying there has been maybe
9 public access, but on a limited basis?

10 A Correct, on a limited basis.

11 Q The Ko'olaupoko Sustainable Community Plan
12 also has a number of other, I guess, guidelines or
13 policies. I'll mention a couple of them to you. I
14 just want to see what the current proposal or plan
15 is.

16 The first one is limited above-grade
17 structures to grave markers of modest size. And
18 necessary administrative and maintenance support
19 buildings that are minimally visible from public
20 rights of way, entries -- are there going to be
21 structures, gazebos, and things like that?

22 A With respect to the expansion area there
23 will only be markers for grades and limited small
24 structures related to cremated remains.

25 Q And that would be the same for the -- do

1 you have an idea currently as to what would be a
2 small structure?

3 A Were you present on the site visit?

4 Q No, I was not.

5 A The structures that were observed during
6 the site visit would be the extent of the structural
7 elements that might comprise the cemetery expansion
8 area.

9 Q So my client, who was at the site visit,
10 did see gazebos. You're not indicating that there is
11 going to be gazeboes?

12 A Correct. There will not be gazeboes in the
13 expansion area. Can I correct that?

14 There could be gazeboes in the expansion
15 area.

16 MR. TABATA: If I may, Mr. Morford will be
17 testifying later, and he will have more information
18 about the expansion area.

19 Q (By Mr. Pang): As the land use and
20 planner, is there a specific reason as to why you are
21 asking for reclassification of the Kawa'ewa'e Heiau
22 area which right now is Conservation? Is there a
23 specific reason that that's included in the district
24 boundary amendment?

25 A Yeah. Variety, a number of reasons to

1 include that within the Urban District. First, there
2 may be some activities included in the cultural
3 preserve area that are better suited for the Urban
4 District in terms of renovation work or restoration
5 work. There would also -- there's been an expressed
6 desire by the civic club to include an area within
7 the preserve that would be suitable for traditional
8 Hawaiian burials.

9 There was a bill passed at the legislature
10 in the last three years or so. I'm sorry, I don't
11 remember the act or the HRS reference, but it changed
12 the law governing burials in the State of Hawai'i
13 that allow native Hawaiian practitioners to protocols
14 more consistent with native Hawaiian burial
15 practices.

16 Hawaiian Memorial Park has agreed to allow
17 a certain number of those burials in the cultural
18 preserve, and as such, they would not be allowed in
19 the Conservation District.

20 Q Are you familiar with -- you did state that
21 you had to review the Acting Director Sokugawa's what
22 testimony?

23 A I did.

24 Q You are familiar with her proposed or
25 recommended Condition 3 which would be prior to

1 condition of grading permit shall -- Petitioner shall
2 submit to the City and County of Honolulu and plan
3 and schedule of planning?

4 A Yes.

5 Q And the Petitioner is okay with that
6 condition?

7 A Yes.

8 CHAIRPERSON SCHEUER: How much longer, Mr.
9 Pang?

10 MR. PANG: Two more questions or less.

11 Q Is there a current landscape plan that you
12 have right now?

13 A There is not.

14 Q Do you anticipate a landscaping plan for
15 the entire expansion or going to come at it
16 piecemeal?

17 A No, there would be a landscape plan that
18 governs --

19 Q -- the entirety?

20 A Correct.

21 Q Thank you very much.

22 I have no further questions.

23 CHAIRPERSON SCHEUER: Thank you. OP?

24 MS. APUNA: Thank you, Chair. Thank you,
25 Mr. Ezer for your testimony.

1 -o0o-

2 CROSS-EXAMINATION

3 BY MS. APUNA:

4 Q With regard to the 150-foot residential
5 buffer, can you point out on your map where that
6 buffer is located?

7 A Certainly. Excuse my back. I'll highlight
8 the area with the laser pointer.

9 MR. TABATA: For the record, pointing out
10 the conceptual plan which is part of Exhibit 6.

11 THE WITNESS: Figure 2.2.

12 Q (By Ms. Apuna): Thank you.

13 Is the buffer at least 150 feet?

14 A Yes.

15 Q So 150 feet or more?

16 A Correct.

17 Q And on that buffer, is it also open space,
18 or will there be anything placed within that buffer?

19 A It will be open space.

20 Q With regard to the Conservation Easement
21 coverage, I believe you stated that it covered -- the
22 easement covered the entire area. Did you mean the
23 entire Petition Area?

24 A I meant the entire Petition Area, in
25 addition to. So the 53.4 whatever acres, plus the

1 100 acres that are on the other side of the cultural
2 preserve going up to Pohai Nani.

3 So it would include 156 acres plus or
4 minus. The only area of the tax map parcel not
5 covered by Conservation Easement would be the
6 existing 8 acres, 7.9-something acres contained
7 within the Ocean View Garden section of the existing
8 Hawaiian Memorial Park.

9 Q Does the Conservation Easement cover the
10 damselfly habitat?

11 A That is correct.

12 Q Can you point that out too, where the
13 habitat is?

14 A I can show you probably where that might
15 be. It's in that area (indicating).

16 Q Thank you.

17 MS. APUNA: We have no further questions.

18 CHAIRPERSON SCHEUER: Thank you.

19 Intervenors.

20 Sorry, just not any restriction, but do you
21 have a sense of length of time? We've been going
22 about an hour.

23 MR. YOSHIMORI: I have about 15 minutes.

24 CHAIRPERSON SCHEUER: And I suspect
25 Commissioners will have quite a few questions as

1 well, so we will take a break now.

2 It's 2:31. We will reconvene exactly at
3 2:41.

4 (Recess taken.)

5 As the staff refers to it, my weapon of
6 choice, the gravel.

7 We are back on session, and we are at the
8 point of the Intervenor having the opportunity to
9 question Petitioner's witness.

10 CROSS-EXAMINATION

11 BY MR. YOSHIMORI:

12 Q Your written testimony mentioned that the
13 LUC is guided by eight standards for the Urban
14 District, Section 3, guidelines states:

15 Urban District includes lands reasonably
16 free from the danger of any flood, tsunami, unstable
17 conditions.

18 But some of that land currently is in the
19 limited Conservation Subzone. And I think the HAR
20 13-5-12 defines it as lands necessary for the
21 protection of the health, safety and welfare of the
22 public by reason of the land susceptibility to
23 inundation by tsunami, flooding, volcanic activity or
24 landslides.

25 So on that conceptual diagram, would you be

1 able to show us where that current limited subzone
2 is?

3 A I can.

4 Q Thank you.

5 A And this is approximate. I'm not going to
6 show you the specific boundary. And it goes around
7 in that general area (indicating).

8 Q Thank you.

9 The EIS mentioned that there is still, with
10 all of the rockfall mitigations, that there's an 86
11 percent of the simulated rockfall could pass into the
12 cultural preserve.

13 So there is still danger to humans in the
14 cultural preserve area from rockfall.

15 A I will not testify to the specifics of the
16 rockfall hazard record. I'm going to defer and hope
17 you can wait on your questions to ask those questions
18 of the person that prepared the report.

19 Q Thank you.

20 So regarding community outreach, in your
21 written testimony you mentioned a lot of community
22 meetings regarding the Ko'olaupoko Sustainable
23 Community Plan, and I just wanted to make sure I
24 understand the KSCP process.

25 My understanding is that first there's

1 public update meetings held by DPP to get community
2 input; and then after that, the DPP sends the KSCP
3 version to the Honolulu Planning Commission for
4 approval.

5 And then lastly the state council takes the
6 council's approved version and passes it as
7 ordinance.

8 Is that roughly right?

9 A It's not completely accurate. The Planning
10 Commission does not have the authority to approve or
11 disapprove any sections of any ordinance that passes
12 through the Planning Commission. They can make
13 recommendations to the City Council. So there's not
14 a Planning Commission approved version.

15 Q But the Honolulu Planning Commission does
16 submit a recommended version to the City Council?

17 A That is correct, a recommended version.

18 Q So you're saying that the development is
19 consistent with the KSCP partly due to the movement
20 of the community growth boundary that is now in the
21 KSCP?

22 A That is correct.

23 Q In the version that was approved by the
24 Planning Commission, did that version get passed on
25 or recommended by the Planning Commission, did that

1 version include the movement of the community, slash,
2 Urban Growth Boundary, and the allowing of Hawaiian
3 Memorial's expansion, was that approved by the
4 Honolulu Planning Commission?

5 A I don't recollect specifically.

6 Q In the Planning Commission public hearing
7 on July 7th -- sorry, 6th -- do you recall telling
8 the Commission that, quote, the Urban Growth Boundary
9 does not need to be moved?

10 A I don't recall that. But if that's part of
11 the record...

12 Q It is. It's in the record.

13 Do you also recall telling the Commission,
14 quote, we're not asking for a boundary amendment?

15 A If I said that, and that's in the record,
16 that would be in the record.

17 Q So after the Planning Commission approved
18 or reviewed the recommendation to KSCP without the
19 movement of the boundaries, the Petitioner later
20 submitted amendments to the KSCP to the City Council
21 directly, which contained the language to move the
22 community growth boundary; is that correct?

23 A I see no reason to say otherwise.

24 Q So in summary, the KSCP community growth
25 boundary language was not reviewed at KSCP public

1 update meetings, and it was not reviewed by the
2 Planning Commission, and was only inserted by the
3 City Council; is that correct?

4 A That would be correct, but this does not
5 take away from the recommendation of the Planning
6 Commission to approve the cemetery as being included
7 in the KSCP.

8 Q Regarding the 2000-foot buffer, how tall
9 are those potential gazebos?

10 A I would say approximately ten feet.

11 Q I'm just thinking, because I can see it
12 pretty clear from Mr. McCreedy's house.

13 Did the viewplane analysis take into
14 account the height of those gazebos?

15 A It did not.

16 Q So I wanted to quote what the KSCP says.
17 Section 3.19 of the KSCP, quote:

18 Any proposed expansion by Hawaiian Memorial
19 Park MUST -- that's my emphasis -- must include
20 100-foot buffer from the residential homes --
21 150-foot buffer from the residential homes, and a
22 2000-foot buffer from the Pohai Nani Senior Living
23 Community.

24 Councilmember Pine negotiated that language
25 with the Petitioner on the day that the

1 Transportation and Planning Committee voted; is that
2 right?

3 A That is not correct.

4 Q Was the language in there prior -- let me
5 step back.

6 Did Councilmember Pine submit an amendment
7 CC-270 on the day of the hearing?

8 A I believe she did, yes.

9 Q And she wrote that amendment?

10 A I have no idea.

11 Q But did she have discussions with the
12 Petitioner during that time before submitting the
13 amendment?

14 A I'm unclear as to what you're asking.

15 Q I'm asking if the Petitioner met with
16 Councilmember Pine to request putting that specific
17 language into the KSCP?

18 A Petitioner did not.

19 Q Have you seen Intervenor's Exhibit 7, which
20 is a letter from Councilmember Pine to the LUC?

21 A I have seen that, yes.

22 Q I would like to quote it.

23 "The council's intent was to set the buffer
24 at 2000 feet from the Pohai Nani property line, and
25 150 feet from the residential property line."

1 So you're testifying today that --

2 A Is there a question there?

3 Q Yes, I'm asking you a question.

4 A Thank you.

5 Q So are you saying that despite the language
6 being inserted, and the statement from Councilmember
7 Pine, that the Petitioner is not required to adhere
8 to the 2000-foot buffer because the KSCP is not
9 regulatory?

10 A I'm not saying that there shouldn't be
11 attention paid to the 2000-foot buffer. I do contend
12 that the language in the KPSCP is not regulatory.

13 And if I may expand on Councilmember Pine's
14 letter. She was indicating perhaps what her intent
15 was, but the intent is not included in the language,
16 and Councilmember Pine cannot speak for the council.
17 The council would be the correct body to offer an
18 opinion as to what the intent was.

19 Q So will the Petitioner be honoring the
20 150-foot buffer of the residents?

21 A Yes.

22 Q And how is that different from the
23 2000-foot buffer?

24 A We are -- we made a commitment to 150-foot
25 buffer.

1 Q Where is that buffer for residents starting
2 from, center of my house or edge of my property?

3 A It's the edge of your property.

4 Q Thank you. I have no further questions.

5 CHAIRPERSON SCHEUER: Thank you.

6 Commissioners? Commissioner Wong.

7 COMMISSIONER WONG: Chair, thank you.

8 To go over the facts again, from your
9 testimony, the cultural portion. Who's going to run
10 it?

11 THE WITNESS: It's layered. The cultural
12 preserve would be included within the Conservation
13 Easement as with all of the property. The holder of
14 the easement would be the ultimate arbiter of what
15 happens within the construct of the area identified
16 within the easement.

17 The intent is for the Koolaupoko Civic Club
18 to assume managerial responsibility for the area of
19 the cultural preserve. And that would be language
20 that would be included in the Conservation Easement.

21 COMMISSIONER WONG: So the cultural -- the
22 easement itself, just the easement for the
23 conservation area?

24 THE WITNESS: The intent for the
25 Conservation Easement would be that the Hawaiian

1 Islands Land Trust would be the holder of the
2 easement.

3 COMMISSIONER WONG: So there's nothing in
4 writing or guarantee yet?

5 THE WITNESS: No. And we -- Hawaiian
6 Islands Land Trust will not execute an easement until
7 these proceedings are concluded.

8 COMMISSIONER WONG: Does that also include
9 the Koolaupoko group?

10 THE WITNESS: That is correct.

11 COMMISSIONER WONG: That's it. Thank you.

12 CHAIRPERSON SCHEUER: Commissioner Okuda.

13 COMMISSIONER OKUDA: Thank you, Mr. Chair.

14 To follow up, Mr. Ezer, Commissioner Wong's
15 questions.

16 Right now, your client, Hawaiian Memorial
17 Park, and the Hawaiian Islands Land Trust do not have
18 specific terms and conditions as far as what the
19 terms and conditions would be of this Conservation
20 Easement; correct?

21 THE WITNESS: That is correct.

22 COMMISSIONER OKUDA: So to avoid lawyer
23 language, wouldn't you agree that frankly at this
24 point in time, even though people might have hopes
25 and maybe dreams for what would be entailed regarding

1 this easement, the terms and conditions are really
2 speculative; correct?

3 THE WITNESS: They have not been
4 determined.

5 COMMISSIONER OKUDA: And because they have
6 not been determined, it's really speculation;
7 correct?

8 THE WITNESS: I couldn't hazard a guess as
9 to what might be in the easement.

10 COMMISSIONER OKUDA: And isn't the fact
11 that the terms and conditions of this easement are
12 not clear, that's actually reflected in your Exhibit
13 25. You would agree?

14 THE WITNESS: Exhibit 25 is --

15 COMMISSIONER OKUDA: Exhibit 25 is a letter
16 from Hawaiian Islands Land Trust dated August 7, 2017
17 to Jay, J-A-Y, Morford, M-O-R-F-O-R-D, President of
18 Hawaiian Memorial Life Plan, Ltd. And it's signed by
19 Kawika, K-A-W-I-K-A, K. Burgess, B-U-R-G-E-S-S, CEO
20 Hawaiian Islands Land Trust?

21 THE WITNESS: Could you repeat the
22 question, please?

23 COMMISSIONER OKUDA: Let me just read this
24 section and you tell me whether or not I've
25 accurately read it. And you can refer to your

1 Exhibit 25. This is the third full paragraph in the
2 letter where Mr. Burgess writes, and I quote:

3 "I appreciate the opportunity to explore
4 the protection of the natural and cultural resources
5 on the HMP property in Kaneohe and our site visit to
6 the property. The HMP property does contain several
7 unique natural and cultural resources which HILT
8 would potentially be interested in protecting through
9 a Conservation easement. However, since HMP is
10 currently seeking entitlements to expand its use on
11 portions of the property where the proposed
12 Conservation Easement would be located, the timing
13 for a Conservation Easement would likely best be done
14 after any entitlements or approvals were completed.
15 This will ensure that all proposed uses and
16 requirements or conditions associated with the
17 property are clearly established prior to the
18 drafting of the Conservation Easement. The terms of
19 the Conservation Easement would also be subject to
20 approval by the HILT's board of directors."

21 Did I read that section of the letter which
22 is your client's Exhibit 25 accurately?

23 THE WITNESS: Yes. I believe you did.

24 COMMISSIONER OKUDA: Okay. So right now
25 there really are no agreed terms and conditions

1 regarding the Conservation Easement; correct?

2 THE WITNESS: That is correct.

3 COMMISSIONER OKUDA: Okay.

4 Now, you were asked questions about the
5 statute. You were asked questions about the
6 administrative rules, which govern the
7 decision-making of the Land Use Commission with
8 respect to a boundary amendment from Conservation to
9 Urban; correct?

10 THE WITNESS: Correct.

11 COMMISSIONER OKUDA: And you gave your
12 opinion as far as your analysis of those legal
13 provisions, correct?

14 THE WITNESS: That is correct.

15 COMMISSIONER OKUDA: And you believe, based
16 on your education and experience, you're qualified to
17 give such an opinion, correct?

18 THE WITNESS: I do.

19 COMMISSIONER OKUDA: Would you agree
20 that -- or if you disagree you tell me you
21 disagree -- that the Land Use Commission is also
22 required to look at the provisions of the Hawai'i
23 State Constitution in making its decisions with
24 respect to boundary amendments?

25 THE WITNESS: If you say so.

1 COMMISSIONER OKUDA: No, no. I'm not
2 saying anything. I'm asking you because, you know,
3 you just testified you're the expert.

4 THE WITNESS: I'm not an expert on Hawai'i
5 State Constitution, but I know there are provisions
6 in the state constitution that are applicable to this
7 Petition.

8 COMMISSIONER OKUDA: And you were willing,
9 and you just testified that you were qualified to
10 give an opinion about the applicability of legal
11 rules such as statute, administrative rules with
12 respect to this pending boundary amendment request;
13 correct?

14 THE WITNESS: I testified that I was, I'm
15 okay to administer or offer an opinion, yes.

16 COMMISSIONER OKUDA: Let me read what I
17 think Hawai'i Constitution Article XI, Section 1
18 states. And so that this isn't a trick question,
19 after I read it, I'm going to ask you whether I
20 accurately read the provision; and No. 2, whether or
21 not the Land Use Commission is duty bound to follow
22 this provision. Okay?

23 And let me read Article XI, Section 1, and
24 I quote:

25 "For the benefit of present and future

1 generations, the state and all its political
2 subdivisions shall conserve and protect Hawaii's
3 natural beauty and all natural resources, including
4 land, water, air, minerals and energy sources; and
5 shall promote the development and utilization of
6 these resources in a manner consistent with their
7 conservation, and in furtherance of the
8 self-sufficiency of the state."

9 There is another paragraph that really
10 doesn't apply to this present situation, but did I
11 accurately read the section from the Hawai'i State
12 Constitution?

13 THE WITNESS: Since I don't have a copy of
14 the constitution in front of me, I'll take your word
15 for it that you read it accurately.

16 COMMISSIONER OKUDA: Do you believe, or in
17 forming your analysis and your testimony that you
18 have given here under oath, did you believe that it
19 was important to look at the requirements that the
20 Hawai'i State Constitution has imposed on government
21 agencies and commissions like the Land Use
22 Commission?

23 THE WITNESS: I would understand that the
24 laws and regulations governing land use in the State
25 of Hawai'i, and including the laws governing, and the

1 rules governing the Land Use Commission, are
2 consistent with the state constitution.

3 So in that context, my analysis of those
4 laws and those rules, assuming they are consistent
5 with the state constitution, I would say yes.

6 COMMISSIONER OKUDA: Okay. But did your --
7 strike that.

8 Did you believe that your analysis should
9 specifically consider the provisions, or what some
10 people would call the admonitions that are stated in
11 the Hawai'i State Constitution with respect to the
12 conservation and protection of Hawaii's natural
13 beauty and all natural resources?

14 THE WITNESS: The analysis contained in our
15 reports and in the Environmental Impact Statement,
16 although not specifically addressed to the
17 constitution, the language in the constitution that
18 you just read, do consider those elements.

19 COMMISSIONER OKUDA: Let me just get some
20 clarity there.

21 So did your analysis in the Environmental
22 Impact Statement, or anything else that you submitted
23 as evidence or your client has submitted as evidence
24 in this case, contain a specific analysis of whether
25 or not this proposed development complies or doesn't

1 comply with Article XI, Section 1 of the Hawai'i
2 State Constitution?

3 THE WITNESS: There is no specific
4 identification in the EIS of those provisions.

5 COMMISSIONER OKUDA: Can you point to me
6 where in the record there's any discussion, even if
7 there might be no specific analysis with respect to
8 Article XI, Section 1, where in the record there's
9 any type of evidence presented how this proposed
10 development protects Hawaii's natural beauty and all
11 natural resources?

12 THE WITNESS: There is a section in the
13 Environmental Impact Statement related to analysis of
14 views and visual impacts, and there are several
15 sections in the Environmental Impact Statement
16 related to biological, botanical, entomological,
17 historic and cultural resources.

18 COMMISSIONER OKUDA: Give me one second,
19 please, because of my bad handwriting, I don't rely
20 too much on paper any more.

21 Now, even though you testified that you
22 will defer to certain other witnesses regarding
23 certain areas of testimony, you did compile the Final
24 EIS taking into account and including the reports of
25 these other experts; correct?

1 THE WITNESS: That is correct. We did
2 compile that information.

3 COMMISSIONER OKUDA: And in the process of
4 compiling this information, you read these reports;
5 correct?

6 THE WITNESS: I did.

7 COMMISSIONER OKUDA: And even though you
8 might not be the expert in those sub-matter areas,
9 you were reading these reports for several purposes,
10 one of which included making sure there wasn't
11 anything that really stood out, you know, from the
12 paper indicating there might be some type of error;
13 correct?

14 THE WITNESS: That was part of our
15 responsibility.

16 COMMISSIONER OKUDA: Now, in Chapter 2 of
17 the Final EIS, which is titled "Project Needs and
18 Objectives", and specifically at page 2-31, there is
19 a statement here that the estimated excavation is
20 estimated at 470,960 cubic yards.

21 Was that an accurate statement of what the
22 estimated excavation was estimated to be?

23 THE WITNESS: If it says that in the EIS,
24 then, yes.

25 COMMISSIONER OKUDA: On the same page it

1 states: "Estimated embankment 413,673 cubic yards."

2 Do you recall that's what is stated on page
3 2-31 of the Final EIS?

4 THE WITNESS: It's in front of me, yes.

5 COMMISSIONER OKUDA: And then there's a
6 calculation on that page and it says "net change",
7 and in a bracket it says {57,287 cubic yards (cut)}.

8 Does that sound like I accurately read
9 what's there?

10 THE WITNESS: You have accurately read
11 what's there.

12 COMMISSIONER OKUDA: Okay.

13 So for those of us who aren't engineers or
14 construction people, what this section basically says
15 is that 470,970 cubic yards of materials are going to
16 be excavated from the site; correct?

17 THE WITNESS: Correct.

18 COMMISSIONER OKUDA: And the site is going
19 to be filled with 413,673 cubic yards; correct?

20 THE WITNESS: That is correct.

21 COMMISSIONER OKUDA: So basically
22 57,287 cubic yards is going have to be taken away and
23 disposed of at some other place; correct?

24 THE WITNESS: That is correct.

25 COMMISSIONER OKUDA: And below that section

1 is an explanation of where that material is proposed
2 to be disposed of; correct?

3 Would it be easier if I give you a second
4 to get out your Final EIS and look at Page 2-31?

5 THE WITNESS: I have it. I'm there.

6 COMMISSIONER OKUDA: Take your time.

7 My question is that section has a
8 discussion of where the materials are proposed to be
9 disposed of; correct?

10 THE WITNESS: I think it's more a general
11 description of how the material would be moved around
12 the site.

13 COMMISSIONER OKUDA: Well, isn't it true
14 what's going to be moved around is the estimated
15 embankment amount of 413,673 cubic yards?

16 THE WITNESS: Correct.

17 COMMISSIONER OKUDA: So the disposed amount
18 is the difference between the stuff that's being cut
19 out of Oneawa Hills, minus the stuff that is filled
20 on the property, and whatever you can't fill, that's
21 got to be trucked away to some other place; correct?

22 THE WITNESS: That is correct.

23 COMMISSIONER OKUDA: You know, if it's
24 57,287 cubic yards that have to be trucked away, how
25 many dump trucks is that?

1 I'm not being facetious here, this is not a
2 trick question, because we have to look at, you know,
3 community-wide impacts, and that's basically where
4 I'm going.

5 So if the stuff is not going to stay
6 on-site, you know, I would like to know approximately
7 how many dump trucks are we talking about?

8 THE WITNESS: I would defer answering that
9 question to the civil engineer.

10 COMMISSIONER OKUDA: And isn't it true that
11 the Final EIS at page 2-31 specifically states where
12 these materials are going to be disposed of?

13 THE WITNESS: It says to the PVT
14 Nanakuli-construction and demolition landfill.

15 COMMISSIONER OKUDA: PVT
16 Nanakuli-construction and demolition material
17 landfill site.

18 Would you dispute the fact that the
19 Nanakuli Community is not necessarily in love with
20 the PVT landfill in their community?

21 THE WITNESS: That's not for me to
22 determine. The landfill is there to accept
23 demolition material.

24 COMMISSIONER OKUDA: And, you know, in
25 fact, there's been community meetings up in Nanakuli

1 with respect to proposed expansion of that landfill;
2 correct?

3 THE WITNESS: I am aware that that has
4 occurred.

5 COMMISSIONER OKUDA: In fact, at one of the
6 neighborhood board meetings where the subject was
7 being discussed, it seemed like the community was so
8 upset, and maybe some people would describe it as
9 outraged, that police have to be called.

10 Are you aware of that?

11 THE WITNESS: I am not.

12 COMMISSIONER OKUDA: I think I read it in
13 the Star Advertiser.

14 But what is going to be the impact of
15 disposing 57,287 cubic yards of cut material in the
16 PVT Nanakuli-construction and demolition material
17 landfill site?

18 THE WITNESS: Could you be a little more
19 specific?

20 COMMISSIONER OKUDA: Yeah.

21 What is going to be the impact of disposing
22 57,287 cubic yards of cut material in this PVT
23 landfill which the Nanakuli Community is not too
24 thrilled to have?

25 THE WITNESS: The landfill is currently

1 open. Its purpose is to accept demolition material.
2 If this project creates demolition material, and the
3 landfill is open, it must receive that material.

4 COMMISSIONER OKUDA: Or -- and if -- well,
5 let me ask you this.

6 What evidence is there in the record which
7 indicates what the impact would be on the capacity of
8 the PVT landfill by having 57,000-plus cubic yards of
9 material added or disposed of at that landfill?

10 THE WITNESS: At this moment, I can't say.

11 COMMISSIONER OKUDA: So you would agree
12 that the record is incomplete here to show what the
13 impact is of cutting this amount of material and
14 dumping it out at the PVT landfill; correct?

15 THE WITNESS: I would defer that question
16 to the civil engineer.

17 COMMISSIONER OKUDA: Okay, I'll ask the
18 civil engineer.

19 Now, in compiling the Final EIS and the
20 reports of your subconsultants, again, this goes to
21 the requirements of the Hawai'i State Constitution,
22 the Oneawa Hills will be altered permanently;
23 correct?

24 THE WITNESS: The lower portion of the
25 property at the lower elevation of the hill would be

1 altered permanently, that is correct.

2 COMMISSIONER OKUDA: And the hills will be
3 altered by cuts made into the hill; correct?

4 THE WITNESS: That is correct.

5 COMMISSIONER OKUDA: And these cuts may be
6 as high as how many feet?

7 THE WITNESS: I believe it could be
8 approximately 70 feet. It could be a different
9 number, but I would again defer the specific answer
10 to that to the civil engineer.

11 COMMISSIONER OKUDA: I'll ask the civil
12 engineer about that, but let me ask you this.

13 Is there any evidence before the Land Use
14 Commission here which shows what the visual impact is
15 going to be of having one or more 70-foot high cuts
16 into the Oneawa Hills?

17 THE WITNESS: The visual analysis contained
18 in the EIS does present computer simulations of what
19 the results would be of the development of the
20 project on that area.

21 COMMISSIONER OKUDA: Can you -- just so
22 that I'm clear that we're looking at the same page,
23 what page of the Final EIS contains those
24 simulations?

25 THE WITNESS: You'll have to give me a

1 moment.

2 COMMISSIONER OKUDA: Sure, sure, take
3 whatever time you need.

4 CHAIRPERSON SCHEUER: I'm going to call for
5 a brief one minute recess.

6 (Recess taken.)

7 CHAIRPERSON SCHEUER: Commissioner Okuda,
8 I'm trying to manage the time here, while allowing
9 full and complete discussion as possible. There is
10 one witness who we had already heard was not going to
11 be available in April.

12 How much more did you want with Mr. Ezer?

13 COMMISSIONER OKUDA: I'll defer to that
14 witness testifying.

15 CHAIRPERSON SCHEUER: We might -- we will
16 want to recall Mr. Ezer the next time we get together
17 to couldn't the questioning.

18 MR. TABATA: We agree it would be best if
19 we could put Robin Lim on now and continue Mr. Ezer
20 later.

21 CHAIRPERSON SCHEUER: Any objection from
22 any of the other parties to do that?

23 MR. PANG: No objection.

24 MS. APUNA: No objection.

25 MR. YOSHIMORI: No objection.

1 CHAIRPERSON SCHEUER: Thank you, Mr. Ezer.
2 And let's get the witness up here. I think
3 before the coach taking our Commissioners to the
4 airport turns into a pumpkin, I think we can go about
5 15 more minutes.

6 Good afternoon.

7 THE WITNESS: Good afternoon.

8 CHAIRPERSON SCHEUER: Do you swear or
9 affirm the testimony you're about to give is the
10 truth?

11 THE WITNESS: Yes, I do.

12 CHAIRPERSON SCHEUER: State your name and
13 address for the record and then proceed with your
14 counsel.

15 ROBIN LIM

16 Was called as a witness by and on behalf of the
17 Petitioner, was sworn to tell the truth, was examined
18 and testified as follows:

19 DIRECT EXAMINATION

20 THE WITNESS: My name is Robin Lim, and I
21 work for Geolabs, and address is 94-429 Koaki Street
22 in Waipahu, Hawai'i 96797.

23 BY MR. MATSUBARA:

24 Q What is your engineering specialty?

25 A I specialize in geotechnical engineering, a

1 subset of civil engineering.

2 Q What were your responsibilities in regard
3 to being retained for this particular project?

4 A My responsibility here is to evaluate the
5 conditions at the site, rockfall hazard, slope
6 stability, and to assist also little bit in
7 groundwater study.

8 Q You provided written testimony regarding
9 your investigation and results of that investigation;
10 is that correct?

11 CHAIRPERSON SCHEUER: Can you go closer to
12 the mic, please? Having a hard time hearing.

13 Q (By Mr. Matsubara): You prepared written
14 testimony regarding your investigation and findings?

15 A Yes, I did.

16 Q And that written testimony has been marked
17 as Exhibit 34; is that correct?

18 A I believe that is correct.

19 Q Attached to your resume is your
20 geotechnical resume which includes your educational
21 background and your professional experience?

22 A Yes.

23 Q And that covers 30 years of both education
24 and professional experience?

25 A That is correct.

1 MR. MATSUBARA: Rather than going through
2 that, it's attached as exhibit to our Petitioner's
3 Exhibit 34, and I would like to have Mr. Lim admitted
4 as an expert geotechnical expert.

5 CHAIRPERSON SCHEUER: Any objections?

6 MR. PANG: No objection.

7 MS. APUNA: No objection.

8 MR. YOSHIMORI: No objection.

9 CHAIRPERSON SCHEUER: Commissioners? So
10 admitted.

11 MR. MATSUBARA: Thank you.

12 Q At this time could you please summarize
13 your written testimony.

14 A Very well.

15 My company, Geolabs, was asked to study the
16 surface conditions on the site and to evaluate it for
17 rockfall hazard and slope stability hazard.

18 And from our surface reconnaissance of the
19 site, we basically determined the Petition Area and
20 the entire expansion area for rockfall hazard, and we
21 were able to summarize it or break it down into three
22 specific areas.

23 One, which involved the cultural
24 preservation area, the central portion of the
25 expansion area, and the undeveloped areas.

1 In general, we find that the site has low
2 to moderate rockfall hazard. We did recommend some
3 mitigation measures in the central portion, which
4 included a rock catchment area to be installed, to
5 kind of help control the hazard and to mitigate that.

6 We also evaluated the area for slope
7 stability, and determined that the area is going to
8 be fairly stable, especially after the development,
9 and in some cases, the grading is going to remove
10 some of the hazards or the materials associated with
11 potential hazards.

12 As part of the rockfall hazard analysis we
13 conducted analysis using a program called CRSP, which
14 stands for Colorado Rockfall Simulation Program, and
15 meet analysis of five representative cross-section of
16 the areas to represent those areas of study. And
17 those results are contained in the Rockfall and Slope
18 Hazard Assessment Report in detail.

19 Q Let me just ask you briefly in terms of the
20 rockfall concrete ditch that will be in place as a
21 mitigation element. Could you describe the
22 dimensions of that catchment ditch?

23 A The main feature of the rockfall catchment
24 area needs to be approximately 1,000 linear feet
25 along the upper boundary of the expansion area. And

1 the main feature is the depth of the rockfall
2 catchment which is five feet. It needs to be
3 approximately five feet, and it would help to catch a
4 lot of the rockfall that comes past that point and be
5 able to drop it and reduce and remove the energy so
6 that it doesn't continue rolling down the slope of
7 the property.

8 Q This would be a V-shaped catchment?

9 A That is correct.

10 Q You also plan to have a fence above the
11 catchment ditch. What would be the purpose of that?

12 A Correct. We also recommended placement of
13 simple typical chain link fence above the catchment
14 ditch in order to catch some debris that might be
15 coming down from the trees because of the heavy
16 vegetation in the forested areas above.

17 That way it will help to kind of keep the
18 maintenance in check and does not allow the debris to
19 fall on to the catchment, rock catchment which may
20 render the effectiveness a little bit less in the
21 event of a rockfall event.

22 Q Thank you. Please go on.

23 A That was the main area that needed
24 mitigation which was the recommended approach because
25 it also concerned the rockfall catchment is a

1 concrete-lined ditch which would also help to convey
2 surface water runoff in a controlled manner to the
3 proper discharge point.

4 The grading work that was going to propose
5 will help to also reduce the forest liter and other
6 materials on the ground surface. Right now that
7 could be a source zone for debris flows, and which is
8 part of the slope stability that was conducted.

9 Once the area is graded, it would expose --
10 and the slope is implemented the way it's intended by
11 qualified geotechnical engineers, it should have the
12 proper stability, and does not pose a threat to the
13 land use.

14 And then we also conducted an investigation
15 of the seepage area to assist one of the -- to study
16 of the groundwater conditions in that area and that
17 we were just providing assistance to one of the other
18 team members.

19 Q Does that conclude your summary?

20 A Yes.

21 Q Thank you.

22 MR. MATSUBARA: Mr. Lim is available for
23 cross-examination.

24 CHAIRPERSON SCHEUER: Thank you very much.

25 City, about how much do you think you have?

1 MR. PANG: Couple questions.

2 CROSS-EXAMINATION

3 BY MR. PANG:

4 Q Just going to quote from your written
5 testimony, just ask you a couple questions.

6 Says: However, the potential for the
7 debris transmission via stormwater runoff should be
8 considered due to the large area of steep forested
9 slopes possessing appreciable forest liter debris on
10 the ground surfaces.

11 Did your discussion or remedial measures
12 regarding the catch ditch include remedial measures
13 for the stormwater runoff, or is that not your
14 expertise?

15 A I would defer that to the civil engineering
16 expert.

17 Q But your analysis, your testimony did
18 indicate that there would be additional stormwater
19 runoff?

20 A Not additional stormwater, but controlled
21 stormwater runoff.

22 Q What about after the grading and clearing,
23 would there be additional stormwater runoff?

24 A Only in areas where you introduce hard
25 surfaces.

1 Q And the other expert would testify as to
2 the remedial areas of system water runoff?

3 A Yes, sir.

4 Q No further questions, thank you.

5 CHAIRPERSON SCHEUER: OP.

6 CROSS-EXAMINATION

7 BY MS. APUNA:

8 Q Thank you, Mr. Lim. I just wanted to know
9 if you could point out on the map where that
10 catchment ditch is.

11 CHAIRPERSON SCHEUER: The witness is
12 pointing to Petitioner's FEIS Figure 2.2.

13 THE WITNESS: This bend (indicating).

14 CHAIRPERSON SCHEUER: Isn't that the mauka
15 side of the property?

16 THE WITNESS: Yes.

17 MS. APUNA: Thank you. No further
18 questions.

19 CHAIRPERSON SCHEUER: Intervenors. Again,
20 I'm trying to manage our time here.

21 CROSS-EXAMINATION

22 BY MR. YOSHIMORI:

23 Q Can you confirm that in your simulated
24 rockfall hazard analysis, that 86 percent of the
25 simulated rockfall could fall into the preservation

1 area?

2 A That is correct.

3 Q And the ditch does not extend into that
4 preservation area; is that correct?

5 A That is correct.

6 Q Do you remember what the mitigations were
7 for the rockfall hazard in the preservation area?

8 A That is a preexisting condition. That is
9 what it is right now, due to the limited usage of
10 that area, supposed to be preservation, there's no
11 specific recommendation to provide for rockfall
12 protection.

13 Q I recall there was a recommendation to
14 place signs warning people about rockfall hazards.
15 Was that one of the recommendations you had?

16 A That is correct. That is the only major --
17 to basically inform users of that area that it's
18 supposed to be very limited use.

19 Q Thank you.

20 CHAIRPERSON SCHEUER: That wasn't three
21 questions, for the record, but that's okay.

22 MR. YOSHIMORI: (Indecipherable).

23 CHAIRPERSON SCHEUER: Chair is going to
24 call that three questions.

25 Commissioner Okuda.

1 COMMISSIONER OKUDA: Thank you, Mr. Chair.

2 Mr. Lim, even though you have described
3 this type of rockfall mitigation, frankly speaking,
4 you're not willing to give any guarantees that people
5 aren't going to get hurt; correct?

6 THE WITNESS: Yes, there is no guarantee in
7 this type of assessment.

8 COMMISSIONER OKUDA: In fact, you stated
9 that in Section 3.4 at page 22 of your report, where
10 you state there are no guarantees in the professional
11 engineering design fields with respect to protection
12 from potential rockfall hazards.

13 That's your statement, correct?

14 THE WITNESS: That is correct.

15 COMMISSIONER OKUDA: So in other words,
16 you're contemplating that it's foreseeable that
17 people could be going into the expanded cemetery area
18 to visit their loved ones and they might be fatally
19 injured or seriously injured by doing so, correct?

20 THE WITNESS: That is correct, nothing in
21 life is guaranteed.

22 COMMISSIONER OKUDA: That's correct,
23 nothing in life is guaranteed. But isn't it true
24 that that's one of the purposes of having real
25 property designated Conservation so that we don't

1 invite people to go into dangerous areas?

2 THE WITNESS: In general that is true.

3 COMMISSIONER OKUDA: Thank you, Mr. Chair.

4 No further questions.

5 CHAIRPERSON SCHEUER: Commissioners?

6 Commissioner Wong.

7 COMMISSIONER WONG: Thank you, sir. Thank
8 you, Chair.

9 Question, in terms of the V, how deep is
10 the piling going to go to hold that V system in
11 place?

12 THE WITNESS: There is really no need for a
13 piling. You would essentially grade the area, and
14 then line it with concrete, and form the V in its
15 permanent condition.

16 COMMISSIONER WONG: I saw this on TV. I
17 don't know if this could happen here, but saw it on
18 TV.

19 You know, sometimes you have a big mountain
20 that just a whole side of it goes down, you know,
21 like an avalanche, but all rocks and dirt.

22 Do you foresee that like the whole idea of
23 the mountain going down?

24 THE WITNESS: No, not particularly. Not
25 the way you're describing, and there's no -- not in

1 that area that the materials are just very different.

2 COMMISSIONER WONG: The other question I
3 have is, let's say the V works and keeps these big
4 boulders, what happens when it's full and another
5 boulder comes down, hits that boulder, and could that
6 happen or someone's going to --

7 THE WITNESS: There will be some
8 maintenance. If there is something in the ditch, it
9 provides for someone to come in and do some
10 maintenance and remove it.

11 So that's one of the reasons why we didn't
12 want the debris to fall in, such as the trees, and
13 that's why the chain link fence there for that part
14 of the reason.

15 That is more the likely event where trees
16 and other debris would fall in and render the
17 effectiveness of what is intended.

18 COMMISSIONER WONG: Then the other question
19 I have, is the chain link fence going to hold trees,
20 and maybe -- wouldn't it jamb up, and let's say
21 there's a big rain -- there is a big rain, somehow
22 that just hold up the water for certain time period
23 and whoosh, brings it down.

24 Would that ever happen or do you ever
25 foresee it?

1 THE WITNESS: That's probably highly
2 unlikely. The chain link fence -- the debris that
3 comes back is also porous, so the water is intended
4 to be able to pass through. There might be some
5 slight damage effect, but in general, that's not the
6 case, and there should be maintenance involved as
7 well when it gets too late, it just provides a more
8 timely and appropriate time to maintain that.

9 COMMISSIONER WONG: Thanks. That's all,
10 thank you.

11 CHAIRPERSON SCHEUER: Commissioner
12 Ohigashi.

13 COMMISSIONER OHIGASHI: You know, I did a
14 case a long time ago. Involved a person getting hurt
15 while driving to Hana and he got hurt by a bolder
16 falling right on his head. Was a sad case.

17 But in that case it involved remedial
18 measures that the state -- and what they did was they
19 chain link, put a fence net on the side of the road,
20 on the hill.

21 What I'm trying to find out, is the risk of
22 some person getting hurt at a rock slide or rockfall,
23 is that any greater than the Hana, that case on Hana
24 Highway where there is rockfalls over there?

25 THE WITNESS: If you are talking about in

1 the cultural preserve area, compare that to that?

2 COMMISSIONER OHIGASHI: Right.

3 THE WITNESS: Hana Highway would have a
4 specific average daily traffic, right, how many
5 vehicles traversing, and that's considered a much
6 more traveled road.

7 So that actually for the same conditions
8 you would have, that would be a greater risk than
9 cultural preserve area, which is supposed to be very
10 limited and controlled entry into that area.

11 COMMISSIONER OHIGASHI: So the balance
12 factors would take into account the actual use of the
13 property as well as the likely -- as well as, I
14 guess, the likelihood it happened, and that would be
15 how to determine the risk factors?

16 THE WITNESS: That is correct. That is a
17 system that we go through, which is termed Rockfall
18 Hazard Rating System.

19 In the case of high (indecipherable) --
20 introduced and used on the highways by Federal
21 Highway Administration.

22 COMMISSIONER OHIGASHI: Is there an intent
23 on the part of the Petitioner to do such an analysis
24 for that area?

25 THE WITNESS: In terms of the number of

1 people using --

2 COMMISSIONER OHIGASHI: The risk analysis.

3 THE WITNESS: I can't speak to that.

4 CHAIRPERSON SCHEUER: Commissioner Cabral.

5 VICE CHAIR CABRAL: I hope this is in your
6 area of expertise.

7 In areas like this we heard earlier that
8 there is albezia and rubbish trees. And I'm from the
9 Big Island, so I'm very involved with albezia. I had
10 one fall and split a house of mine that I manage in
11 half. Luckily no one was hurt. It was horrific.

12 So trees like of that nature, they're on
13 this land and there's kind of a belief I think that
14 having trees and having vegetation helps hold the
15 soil in; but there is also a problem I have that the
16 roots of the large trees break the rocks, then all of
17 a sudden you lose the stability of an area.

18 Can you comment on -- I don't know, I mean
19 I've only been on a site visit to that property, and
20 so I'm -- I don't know the effect of the albezia,
21 rubbish trees, all of the non-native growth on there
22 and how destructive that might be.

23 Can you comment on what's going to be done
24 in regards to those types of situations to make it
25 either safer, or is that not an unsafe situation? I

1 mean, can you comment on the difference between
2 protecting the soil or damaging the structure?

3 CHAIRPERSON SCHEUER: First, if you can
4 respond whether this is a question for you or another
5 witness.

6 THE WITNESS: I think I can only speak to
7 the soil aspects. Any of the forested trees, they'll
8 be degradation of the leaves and so on, called forest
9 liter. They drop the leaves, dead leaves onto the
10 surface, and it produces forest liter that is not
11 attached to the ground, and in heavy rains it can
12 saturate it and cause some instability.

13 Debris flows. That would be a source,
14 potential source of something like that. That's the
15 only thing I can say about the trees and the forest
16 liter.

17 VICE CHAIR CABRAL: Thank you.

18 CHAIRPERSON SCHEUER: Commissioner
19 Giovanni. We're running up on the deadline.

20 COMMISSIONER GIOVANNI: One question.

21 Did your analysis include consideration of
22 seismic activity or earthquakes?

23 THE WITNESS: There will be more
24 consideration for that in the later design, but in
25 the rockfall, that is encompassed in the rockfall

1 simulation program. Doesn't matter how the rock
2 falls, whether it's by seismic event or other natural
3 conditions. If it does fall, the analysis captures
4 that behavior.

5 COMMISSIONER GIOVANNI: I'll leave it at
6 that.

7 CHAIRPERSON SCHEUER: Commissioners. If
8 not, I'm going to paraphrase what I read in your
9 written and heard orally.

10 You state that the removal of trees and
11 replacement with grasses is actually a good thing in
12 terms of reducing debris flow.

13 THE WITNESS: That is correct. I mean,
14 grass has more root system that keeps it at its
15 location, whereas the forest liter does not have root
16 system, and when saturated can be transported.

17 CHAIRPERSON SCHEUER: Thank you. Anything,
18 any redirect?

19 MR. MATSUBARA: Just brief redirect.

20 REDIRECT EXAMINATION

21 BY MR. MATSUBARA:

22 Q In your rockfall analysis, you divided the
23 rockfall analysis into three sections: The area
24 above the cultural preserve, the middle section, and
25 the eastern section.

1 In the cultural preserve you indicated
2 signage would be appropriate.

3 In the middle section where rockfall,
4 limited rockfall hazard may be greater, is the area
5 that would be protected by the concrete capture
6 basin, it will be above the central area of the
7 expansion area?

8 A That's correct.

9 Q So there are different risks in different
10 areas?

11 A That's absolutely correct.

12 Q And the mitigation you proposed is
13 commiserate with the risk you anticipate occurring in
14 those areas?

15 A That is correct.

16 MR. MATSUBARA: Thank you.

17 CHAIRPERSON SCHEUER: Thank you, Parties,
18 thank you for today. Thank you for your patience.

19 As it turned out, the first half went much
20 faster than we thought the second part of the day
21 would go.

22 If there is no other business, I'm going to
23 recess and reconvene the proceedings on a date to be
24 determined with the staff consulting with the
25 Parties.

1 Anything else Members or Parties? If not,
2 we are in recess.

3 (The proceedings recessed at 3:48 p.m.)
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CERTIFICATE

1 STATE OF HAWAII)
2) SS.
3 COUNTY OF HONOLULU)

4 I, JEAN MARIE McMANUS, do hereby certify:

5 That on January 22, 2020, at 9:00 a.m., the
6 proceedings contained herein was taken down by me in
7 machine shorthand and was thereafter reduced to
8 typewriting under my supervision; that the foregoing
9 represents, to the best of my ability, a true and
10 correct copy of the proceedings had in the foregoing
11 matter.

12 I further certify that I am not of counsel for
13 any of the parties hereto, nor in any way interested
14 in the outcome of the cause named in this caption.

15 Dated this 22nd day of January, 2020, in
16 Honolulu, Hawaii.

17
18
19 /s/Jean Marie McManus
20 JEAN MARIE McMANUS, CSR #156
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