

LAND USE COMMISSION
STATE OF HAWAI'I

Hearing held on February 10, 2021
Commencing at 9:00 a.m.

Held via ZOOM by Interactive Conference Technology

I. Call to Order

II. Adoption of Minutes

III. Tentative Meeting Schedule

IV. ACTION

A02-737 U of N BENCORP (HAWAII)

* Consider University of the Nations, Kona, Inc.'s Motion Requesting the Land Use Commission to:

- A. Be the Accepting Authority for an Environmental Impact Statement and
- B. Determine Whether the Proposed Action Warrants the Preparation of an Environmental Impact Statement to be Initiated with the Preparation of an Environmental Impact Statement Preparation Notice

V. ACTION

CITY AND COUNTY OF HONOLULU IMPORTANT AGRICULTURAL LANDS (IAL) DESIGNATION

* To Inform the Commissioners and the Public on the Process and Procedures Required to Review and Render a Decision on a County IAL Submittal pursuant to Part III of Chapter 205 HRS and Subchapter 17 of Chapter 15-15-HAR

VI. RECESS

Before: Jean Marie McManus, Hawaii CSR #156

1 APPEARANCES:

2 JONATHAN LIKEKE SCHEUER, Chair (Oahu)
3 NANCY CABRAL, Vice Chair (Big Island)
4 EDMUND ACZON (Oahu)
5 GARY OKUDA (Oahu)
6 LEE OHIGASHI (Maui)
7 ARNOLD WONG (Oahu)
8 DAWN CHANG (Oahu)
9 DAN GIOVANNI (Kauai)

10 STAFF:

11 LINDA CHOW, ESQ.
12 Deputy Attorney General
13 DANIEL ORODENKER, Executive Officer
14 RILEY K. HAKODA, Chief Clerk
15 SCOTT DERRICKSON, Chief Planner
16 NATASHA A. QUINONES, Program Specialist

17 BRIAN YEE, ESQ.
18 Office of Planning
19 RODNEY FUNAKOSHI, Planning Program Administrator
20 State of Hawaii

21 DINA WONG, Department of Planning and Permitting
22 RAY YOUNG, Department of Planning and Permitting
23 City and County of Honolulu

24 EARL YAMAMOTO, Planner
25 Department of Agriculture
State of Hawaii

DIANA MELLON-LACEY, ESQ.
ZENDO KERN, Planning Director
JEFF DARROW, Deputy Planning Director
MAIJA JACKSON, Planner
City and County of Hawai'i

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1 CHAIRPERSON SCHEUER: Aloha mai kakou and
2 good morning.

3 This is the February 10, 2021 Land Use
4 Commission meeting using interactive
5 videoconferencing technology linking participants and
6 other interested individuals of the public via the
7 ZOOM internet conferencing program. We're doing this
8 of course during the pandemic to comply with State
9 and County official operational directives during the
10 COVID-19 pandemic. Members of the public are viewing
11 the meeting via the ZOOM webinar platform.

12 For all meeting participants, I would like
13 to stress to everyone the importance of speaking
14 slowly, clearly and directly into your microphone.
15 Before speaking, it helps if you state your name and
16 identify yourself for the record. Also please be
17 aware that all meeting participants are being
18 recorded on the digital record of this ZOOM meeting.
19 Your continued participation is your complied consent
20 to be part of the public record of this event. If
21 you do not wish to be part of the public record, you
22 should exit the meeting now. And if you followed the
23 last 24 hours in cycles, this applies even if your
24 face is a cat.

25 The ZOOM conferencing technology allows the

1 parties and each participating Commissioner
2 individual remote access to the meeting proceedings
3 via their digital personal devices.

4 Also please note, so because of that, due
5 to matters entirely outside our control, occasional
6 disruptions to connectivity may occur for one or more
7 members of the meeting at any given time. If such
8 disruptions occur, please let us know, and be patient
9 as we try to restore the audio/visual signals so we
10 can effectively conduct our business during the
11 pandemic.

12 For members of the public who may be
13 participating via phone, I will talk during the
14 portions for public testimony, whether people wish to
15 raise your hands, if you wish to raise your hand and
16 you're calling in by phone, use *9 to virtually raise
17 your hand, and then if you press *6, that will signal
18 to the meeting host that you wish to unmute. I will
19 repeat those directions as well.

20 My name is Jonathan Likeke Scheuer, and I
21 have the honor and pleasure of serving as the LUC
22 Chair, along with me, Commissioners Aczon, Chang,
23 Okuda and Wong, our LUC Executive Officer Daniel
24 Orodener, our Chief Planner, Scott Derrickson, our
25 Chief Clerk, Riley Hakoda, Deputy Attorney General

1 Linda Chow, Program Specialist Natasha Quinoes, and
2 our Court Reporter Jean McManus are all on the Island
3 of Oahu. Commissioner Nancy Cabral is on Hawaii
4 Island, Commissioner Lee Ohigashi is on Maui and
5 Commissioner Dan Giovanni is on Kauai. We currently
6 have eight seated Commissioners of a possible nine.

7 Our first order of business is the adoption
8 of the January 28, 2021 minutes. Mr. Hakoda, Mr.
9 Derrickson, has anybody submitted written testimony
10 on the adoption of the minutes?

11 CHIEF CLERK: This is Riley. We don't have
12 any testimony on the minutes.

13 CHAIRPERSON SCHEUER: Is there anybody
14 who's participating in this meeting as a member of
15 the public in the attendees area who wishes to
16 testify? If so, use your "raise hand" function on
17 ZOOM. I don't see anybody calling in, so I'll repeat
18 those directions. Is there anybody who wishes to
19 testify on the adoption of the minutes? Seeing none,
20 Commissioners, are there any comments or questions?

21 Commissioner Cabral.

22 VICE CHAIR CABRAL: I move to adopt the
23 minutes of January 28th.

24 CHAIRPERSON SCHEUER: Is there a second to
25 Commissioner Cabral's motion?

1 COMMISSIONER WONG: Chair, Commissioner
2 Wong, I second.

3 CHAIRPERSON SCHEUER: A motion has been
4 made by Commissioner Cabral and seconded by
5 Commissioner Wong. Any discussion on the motion?

6 If not, Commissioners, all in favor say
7 "aye" and also raise your hand.

8 Are there any Commissioners opposed? If
9 not, the motion carries.

10 Our next agenda item is the tentative
11 meeting schedule. Mr. Orodener, please go over that
12 with us.

13 EXECUTIVE OFFICER: Thank you, Mr. Chair.

14 Tomorrow we will also be here in ZOOM
15 meeting to discuss the Important Agricultural Land
16 process. It's an informational session for the
17 Commissioners and the Public.

18 February 24th we will be hearing the Barry
19 Trust Motion. It's a District Boundary Amendment
20 also by ZOOM. Important Agricultural Land
21 designation from the City and County of Honolulu may
22 begin on that date, time dependent.

23 We will take up the City and County IAL
24 submission on February 25th.

25 On March 10th we will begin the Hokua Place

1 dba matter, Kauai matter.

2 And we will also be hearing that on
3 March 11th.

4 We also anticipate those hearings to be
5 held by ZOOM.

6 On March 24th we will be Adopting the Order
7 for the Barry Trust matter, if necessary, and we will
8 also be continuing any business associated with the
9 City and County IAL submission as well as on March
10 25th.

11 April 14th, we will be hearing Windward
12 Hotel matter as well as the DR, a Maui Declaratory
13 Ruling Motion.

14 On April 15th, we will be hearing a status
15 conference on the Kula Ridge matter. That's also a
16 Maui matter.

17 On April 28th, we will be hearing the
18 Kamalani Motion to extend time.

19 On May 12th, we will be having a hearing on
20 the AES West Oahu Solar matter.

21 On May 13th, we will be taking up the
22 Pohakea matter on Maui.

23 We anticipate -- by the way, all these
24 meetings will be by ZOOM until further notice.

25 On May 26th we will be continuing the

1 Pohakea Special Permit matter, if necessary.

2 June 9th we will take up anticipated Kula
3 Ridge Order to Show Cause, and that takes us through
4 the end of the firm calendar and we anticipate
5 further items coming in.

6 CHAIRPERSON SCHEUER: Thank you, Mr.
7 Orodenker.

8 Commissioners, are there any questions for
9 Dan about our schedule? No, other than that's a lot
10 of work ahead of us. I see Nancy's head nodding.
11 We're going to double your salary, Nancy.

12 Our next order of business is an action
13 meeting on Docket A02-737 University of Nations Kona,
14 Inc's Motion Requesting the LUC:

15 A) Be Accepting authority for an EIS; and

16 B) Determine whether the proposed action
17 warrants the preparation of an Environmental Impact
18 Statement Preparation Notice or EISPN.

19 Let me update the record.

20 On January 21, 2021, the University of
21 Nations Kona filed its Motion Requesting the Land Use
22 Commission to both be:

23 A) Be the Accepting Authority for an EIS;

24 and

25 B) Determine whether the Proposed Action

1 Warrants the Preparation of an EIS to be initiated
2 with the Preparation of an EISPN, as well as a
3 Memorandum in Support of the Motion: Declaration of
4 Derek B. Simon; and Exhibit A.

5 On January 29th the State Office of
6 Planning filed its statement of No Opposition to the
7 University of Nation's Motion to Designate the LUC as
8 the Approving Authority under HRS Chapter 343 and for
9 Authority to Prepare Environmental Impact Statement
10 Preparation Notice.

11 On February 1st, the County of Hawaii
12 Planning Department filed County's Response to the
13 University of the Nation's Motion.

14 On February 2nd the Commission mailed and
15 emailed the meeting notice and agenda for the
16 February 10th and 11th, 2021 meeting to be held via
17 virtual interactive conference technology to the
18 Parties and to our statewide, Oahu and Hawaii Island
19 mailing lists. The meeting Notice and Agenda were
20 also filed with the Lieutenant Governor's office and
21 posted electronically to the Commission website.

22 Now, let me go over our procedures for
23 today.

24 First, I will give the Petitioner the
25 opportunity to comment on the Commission's policy

1 governing reimbursement of hearing expenses.

2 I will then recognize any written public
3 testimony that has been submitted on this matter
4 identifying the person or organization who submitted
5 the testimony.

6 I will then call for any individuals who
7 have pre-registered to provide public testimony on
8 the docket. Following that, I will off the
9 opportunity for public testimony to anybody who is
10 attending the meeting.

11 After the completion of all public
12 testimony, the Petitioner, University of the Nations
13 Kona will make its presentation.

14 After the Petitioner's presentation, we
15 will receive questions and comments from the
16 Commissioners.

17 Following that, we will hear from the
18 County with questions and comments from the
19 Commissioners.

20 Following that, the Office of Planning, and
21 the same.

22 The Petitioner will be given a chance for
23 any rebuttal, if necessary.

24 And the Commission will then make final
25 deliberations of the Parties, final questions of the

1 Parties before beginning deliberations.

2 From time to time, about every 50 minutes
3 to an hour, I'll be calling for a break.

4 Are there any questions on our procedures
5 for today, starting with the Petitioner, Mr. Simon?

6 MR. SIMON: Good morning, Chair. No
7 questions from the Petitioner.

8 CHAIRPERSON SCHEUER: Why don't you do your
9 appearances here as well. That was omitted from my
10 script.

11 MR. SIMON: Good morning, Chair,
12 Commissioners, Derek Simon appearing on behalf of
13 Petitioner University of the Nations, Kona, Inc.
14 With me appearing via ZOOM is Jeff Overton of G70.

15 CHAIRPERSON SCHEUER: Thank you very much.

16 Let's now hear from -- questions on our
17 procedures and appearances from the County of Hawaii.
18 Mr. Kern or Mr. Darrow? I cannot see in your
19 conference room who's actually there, because you're
20 kind of small on your camera.

21 MR. KERN: Good morning, Mr. Chair. I'm
22 going to step into the conference room. Give me one
23 second.

24 CHAIRPERSON SCHEUER: Thank you, Mr. Kern.

25 So if your counsel or you could state who's

1 appearing for the County today, and also if you have
2 any questions on our procedures.

3 We are not picking up any audio from your
4 conference room. You don't appear to be unmute, so
5 there appears to be another problem.

6 MR. KERN: Mr. Chair, so in the room with
7 our corp counsel, there's an audio issue with the
8 audio that we're working on right now, but we have no
9 questions on procedures. We're okay to move forward.

10 CHAIRPERSON SCHEUER: For the record, Mr.
11 Kern, who is your corp counsel representing you
12 today?

13 MR. KERN: Diana Mellon-Lacey is going to
14 be our Corporation Counsel, and we have Maija Jackson
15 as well as one of our division managers and me, Zendo
16 Kern as the Planning Director.

17 CHAIRPERSON SCHEUER: Thank you very much
18 Office of Planning?

19 MR. YEE: Bryan Yee, Deputy Attorney
20 General. With me is Rodney Funakoshi for the Office
21 of Planning. We have no questions about procedures.

22 CHAIRPERSON SCHEUER: Thank you very much.

23 Mr. Simon, have you reviewed HAR 15-15-45.1
24 with regard to the reimbursement of hearing expenses;
25 and if so, what is your position?

1 MR. SIMON: Good morning, Chair.
2 University is aware and familiar with the
3 Commission's policies on reimbursements and agree to
4 abide by it.

5 CHAIRPERSON SCHEUER: Thank you very much,
6 Mr. Simon.

7 Now, moving onto public testimony, I had
8 earlier been inform there was no written public
9 testimony, or any individuals pre-registered to
10 provide testimony on this matter. Is that still the
11 case, Mr. Hakoda?

12 CHIEF CLERK: Yes, Mr. Chair.

13 CHAIRPERSON SCHEUER: Is there anybody who
14 is an attendee in the attendee portion of this ZOOM
15 meeting who wishes to testify in this matter? Again,
16 use the "raise your hand" function, or if you are
17 calling in by phone, press *9. Seeing none. There
18 is no public testimony on this matter today.

19 We can go ahead and you can start --
20 actually before you start with your presentation, Mr.
21 Simon, I want to see if there are any disclosures on
22 behalf of any of the Commissioners.

23 I will note that my wife works for the same
24 firm that the consultant, Mr. Overton, works for.
25 She is not part of this project and is not involved

1 in any way whatsoever. I believe I can be fair and
2 impartial on this matter, but I wanted to offer the
3 opportunity to any of the parties to raise an
4 objection or concern on this matter. If any of the
5 Parties or my fellow Commissioners raise an objection
6 or concern, I'm more than happy to turn over the
7 gavel for consideration of that to Vice Chair Cabral,
8 starting with Mr. Simon.

9 MR. SIMON: No objection from the
10 Petitioner, Mr. Chair.

11 CHAIRPERSON SCHEUER: Hawaii County's
12 counsel, Mr. Kern?

13 MR. KERN: Mr. Chair, I apologize, we
14 couldn't hear anything in the other room. We're
15 trying to reboot. I'm really sorry.

16 CHAIRPERSON SCHEUER: I disclosed that my
17 wife, my spouse works for the same planning firm that
18 the consultant to the University of Nations Kona
19 works for. She has no direct involvement or indirect
20 involvement in the matter being consulted, however,
21 I'm giving all the parties an opportunity to raise
22 concerns or object to my continued participation in
23 these proceedings.

24 For the record, it might be best if your
25 counsel answered for you. But I suppose you could

1 also bind the County.

2 MR. KERN: We have no objections on this.

3 CHAIRPERSON SCHEUER: Thank you very much.
4 If you talk it over late and you have an objection,
5 you can disclose that.

6 MR. KERN: We will certainly let you know.

7 CHAIRPERSON SCHEUER: I have other stuff to
8 do.

9 MR. KERN: Apologize for the technical
10 difficulties, we'll get it straightened out.

11 CHAIRPERSON SCHEUER: And Nancy is
12 urging -- okay.

13 Office of Planning? Mr. Yee.

14 MR. YEE: We have no objection. Thank you.

15 CHAIRPERSON SCHEUER: Thank you very much.

16 Are there any other declarations -- not
17 declarations, are there any other notices from the
18 Commission? I've lost myself here.

19 VICE CHAIR CABRAL: Disclosures.

20 CHAIRPERSON SCHEUER: Thank you,
21 disclosures? Thank you, Ma'am Vice Chair.

22 Seeing none, Mr. Simon, do you wish to
23 proceed with your presentation?

24 MR. SIMON: I do.

25 Good morning, Chair, once again, and

1 Commissioners.

2 Thank you very much for gathering today to
3 consider the motion. Thank you very much to staff
4 for helping us coordinate both the pre-file and
5 review of the motion as well as meeting on the agenda
6 today. The University is very grateful for those
7 efforts.

8 Just to kind of run down where we last left
9 off on this docket was the July 23rd hearing held
10 virtually, I guess theoretically in Hilo.

11 At that time the University left with its
12 commitment to proceed diligently with beginning the
13 Chapter 343 compliance process for this project, you
14 know, based on the new project description described
15 in the Motion to Amend that the University filed last
16 March.

17 The University met very shortly thereafter
18 with Executive Officer Mr. Derrickson to plan sort of
19 what the contents of this current filing should be,
20 and appropriate courses of action.

21 We reached out to staff in October to
22 coordinate a filing and hearing date. After that we
23 circulated a pre-file in our early draft of the
24 motion which we believe is pretty straight forward
25 for the Commission to consider that the motion

1 essentially asks two things:

2 That the Commission agree that the
3 appropriate agency to be the accepting authority to
4 process the EIS for this project; and

5 That the Commission authorizes the
6 University to go directly to the preparation of an
7 Environmental Impact Statement through a prep notice
8 as the appropriate course of action for this project.

9 As you may recall back in July at the
10 hearing, we informed the Commission that the
11 infrastructure memorandum that we filed in support of
12 the Motion to Amend indicated that there would need
13 to be a new sewerline installed below Kuakini Highway
14 which would obviously trigger Chapter 343 under the
15 use of State or County land.

16 So that's why we're hear today. This
17 motion is primarily procedural, and sort of
18 requesting the Commission's permission to formally
19 begin the Chapter 343 process through the publication
20 of the Prep Notice and the scoping meetings and that
21 consultation process that begins.

22 We're appreciative of the support we
23 received from the County, and the nice comments
24 County had on the motion as well as No Opposition
25 from Office Of planning. I don't think there is a

1 time warp for us to add beyond what is in our papers
2 that we filed, but we're certainly available, both
3 myself and Overton, to answer any questions that the
4 Commissioners or other Parties may have.

5 CHAIRPERSON SCHEUER: Thank you very much,
6 Mr. Simon.

7 I want to quickly check now that Hawaii
8 County is back up. Can we do an audio check? Can we
9 hear you?

10 MS. MELLON-LACEY: Can you hear me? This
11 is Diana Mellon-Lacey.

12 CHAIRPERSON SCHEUER: Yes, Diana, we can
13 hear you.

14 MS. MELLON-LACEY: Mr. Kern and Ms. Jackson
15 are in the conference with me.

16 CHAIRPERSON SCHEUER: Thank you for that.
17 Following Mr. Simon's presentation, we have
18 questions for the Petitioner from the Commissioners.
19 Commissioners, are there any questions for Mr. Simon?
20 I'm looking around, and I'm seeing none. We can move
21 on to the presentation from Hawaii County.

22 MS. MELLON-LACEY: This is Diana
23 Mellon-Lacey. I think our position is reflected in
24 our filing of February 1st, and we have no questions
25 for Mr. Simon at this time. Thank you.

1 CHAIRPERSON SCHEUER: To clarify our
2 procedures, and perhaps this was due to audio. At
3 this point in our proceedings, other than if you had
4 anything to add to your written filings, you would do
5 that, and then I will open it up to questions from
6 the Commissioners for you.

7 MS. MELLON-LACEY: We have nothing to add
8 to our filing. Thank you.

9 CHAIRPERSON SCHEUER: Commissioners, are
10 there questions for Hawaii County? Seeing none.

11 Mr. Yee.

12 It's nice to see you in a suit again, Mr.
13 Yee.

14 MR. YEE: Thank you. It's been awhile.
15 The Office of Planning has no objections. It's a
16 fairly procedural motion, and basic limits, basic
17 request. Happy to answer any questions.

18 CHAIRPERSON SCHEUER: Commissioners, any
19 questions for the Office of Planning?

20 Well, you all are making this too easy. I
21 will offer the opportunity for Mr. Simon to do any
22 redirect, but that hardly seems necessary at this
23 point.

24 Do you have any redirect or any final
25 comments?

1 MR. SIMON: No redirect, just thanks again
2 to the County and Office of planning for the support.

3 CHAIRPERSON SCHEUER: Commissioners, any
4 questions for any of the Parties? Seeing none.

5 Commissioners, I will entertain a motion
6 that the LUC grant or deny the University of Nations
7 Kona's Motion requesting the LUC to be the:

8 A) The Accepting Authority for an
9 Environmental Impact Statement; and

10 B) Determine that the proposed action
11 warrants the preparation of an EIS to be initiated by
12 the preparation of an EIS Preparation Notice

13 Commissioners, what is your pleasure?

14 Commissioner Cabral.

15 VICE CHAIR CABRAL: So moved, exactly what
16 you just said so eloquently put, Mr. Chairman.

17 CHAIRPERSON SCHEUER: Thank you,
18 Commissioner.

19 Is there a second to Commissioner Cabral's
20 Motion? Commissioner Okuda.

21 COMMISSIONER OKUDA: This is Gary Okuda. I
22 second the Motion.

23 CHAIRPERSON SCHEUER: A Motion has been
24 made by Commissioner Cabral and seconded by
25 Commissioner Okuda. Does the movant or seconder wish

1 to speak to the motion; or does any Commissioner wish
2 to discuss the motion before us?

3 Commissioner Wong.

4 COMMISSIONER WONG: I would like to make a
5 friendly amendment, if possible. This is to allow,
6 authorize our Executive Director to send a letter to
7 OEQC on behalf of the Commission on this issue.

8 CHAIRPERSON SCHEUER: So there is a
9 friendly amendment to the Motion to allow the
10 Executive Officer to send notice to the Office of
11 Environmental Quality Control or OEQC regarding this
12 matter. Does the movant agree?

13 VICE CHAIR CABRAL: Yes, I do.

14 CHAIRPERSON SCHEUER: Secunder agree?

15 COMMISSIONER OKUDA: Yes.

16 CHAIRPERSON SCHEUER: That's the motion
17 before us then. Any further discussion? Seeing
18 none.

19 Mr. Orodener, a motion has been made by
20 Commissioner Cabral, seconded by Commissioner Okuda
21 and accepted the friendly amendment.

22 Would you please poll the Commission?

23 EXECUTIVE OFFICER: The motion is to grant
24 the Petitioner's Motion for the Land Use Commission
25 to be the Accepting Authority and to move directly to

1 an EIS as well as to authorize the Executive Officer
2 to file an appropriate letter with the Office of
3 OEQC.

4 Commissioner Cabral?

5 VICE CHAIR CABRAL: Yes.

6 EXECUTIVE OFFICER: Commissioner Okuda?

7 COMMISSIONER OKUDA: Yes.

8 EXECUTIVE OFFICER: Commissioner Wong?

9 COMMISSIONER WONG: Yes.

10 EXECUTIVE OFFICER: Commissioner Ohigashi?

11 COMMISSIONER OHIGASHI: Yes.

12 EXECUTIVE OFFICER: Commissioner Giovanni?

13 COMMISSIONER GIOVANNI: Aye.

14 EXECUTIVE OFFICER: Commissioner Chang?

15 COMMISSIONER CHANG: Yes.

16 EXECUTIVE OFFICER: Chair Scheuer?

17 CHAIRPERSON SCHEUER: Aye.

18 EXECUTIVE OFFICER: Thank you, Mr. Chair,
19 the Motion passes unanimously with 8 votes.

20 CHAIRPERSON SCHEUER: Thank you very much
21 to the parties for the extremely efficient
22 presentations on this matter.

23 Commissioner Aczon.

24 COMMISSIONER ACZON: Aye.

25 EXECUTIVE OFFICER: I'm sorry.

1 CHAIRPERSON SCHEUER: I guess too
2 efficient, Mr. Orodenker.

3 I apologize, Mr. Aczon. I did not track
4 that.

5 Is there any other -- Mr. Orodenker, what's
6 the vote tally?

7 EXECUTIVE OFFICER: It's eight affirmative
8 votes, Mr. Chair. Thank you.

9 CHAIRPERSON SCHEUER: Commissioner Cabral.

10 VICE CHAIR CABRAL: I didn't want it to be
11 part of the motion and action, because it's not
12 specific to this Petition, but we do this a lot. It
13 seems that procedurally we almost always become the
14 Accepting Authority for, and it would seem that all
15 of these people come together and all of this effort
16 and sometimes they all fly in, and all of this.

17 Seems like in our procedures there should
18 be some more efficient method to which we could
19 become the Accepting Authority For the Environmental
20 Impact Statements and that without having to call the
21 entire party together -- and I don't know that -- I'm
22 just thinking that I like efficiency being a
23 capitalist like I am and stuff.

24 So if it's just something we could maybe
25 think about how or procedure -- and I don't know if,

1 for example, the legislature has to go make the
2 decision. That's above my pay grade.

3 Just an idea that maybe the staff, in their
4 spare time, could take a look at. Thank you.

5 CHAIRPERSON SCHEUER: Thank you,
6 Commissioner Cabral, for those comments.

7 EXECUTIVE OFFICER: Thank you, Commissioner
8 Cabral. Staff will look into whether or not we can
9 make an amendment to our rules to do that.

10 MS. CHOW: In the alternative, you could
11 consider a delegation to the Executive Director or to
12 the Chair to approve being the Accepting Authority,
13 but to require that the EIS come back to the full
14 Commission.

15 CHAIRPERSON SCHEUER: Thank you, Ms. Chow.
16 Commissioner Okuda followed by Commissioner
17 Cabral.

18 COMMISSIONER OKUDA: Chair, if I could be
19 the naysayer here. It is true that it appears that
20 routine stuff could be done more efficiently, but I
21 think for public transparency, this process works
22 well. There's always a possibility that individuals
23 or organizations might believe that the process is
24 rigged. In other words, the people who are asked to
25 be the Accepting Authority were asked to be the

1 Accepting Authority because they would not give
2 impartial review of the Final EIS.

3 So, you know, I just think there are
4 reasons why, even though this seems like a very
5 routine mundane type of motion, having it out in the
6 open so that the public and citizens can object if
7 they think that some other agency or entity should be
8 the accepting authority, I think it helps with the
9 process. Thank you.

10 CHAIRPERSON SCHEUER: Commissioner Cabral.

11 VICE CHAIR CABRAL: Thank you, fellow
12 Commissioner Okuda for that perspective, and I
13 clearly want to make sure we're very open and upfront
14 to the public and all parties involved, and I would
15 love it if we could come up between the AG's Office
16 and our Executive Director, to come up with a way
17 that we might be able to do both things and keep it
18 open. Because, again, the final decision would come
19 back to the Commission.

20 Maybe there's just a way to have it all be
21 satisfied. Just like see, again, efficiency was my
22 intent without compromising the righteousness of the
23 process. Thank you.

24 CHAIRPERSON SCHEUER: Thank you,
25 Commissioner Cabral.

1 Commissioner Aczon followed by Commissioner
2 Chang.

3 VICE CHAIR ACZON: I just want to say that
4 I agree with Commissioner Okuda on this one.

5 CHAIRPERSON SCHEUER: Thank you,
6 Commissioner Aczon.

7 Commissioner Chang.

8 COMMISSIONER CHANG: Thank you. And I
9 appreciate Commissioner Cabral's desire to be
10 efficient, but I have found that in many instances,
11 this one is, in my view, an aberration where we had
12 no discussion, but in many of our cases where the
13 issue comes up about the EIS, there is discussion,
14 presentation. There's guidance from the
15 Commissioners as to what we want to see in the EIS.
16 So I do think that there is benefits to having
17 discussion.

18 And I'm not too sure how best to address
19 Commissioner Cabral's issue, but I think that there
20 is benefits to having a public process for these
21 motions. Thank you.

22 CHAIRPERSON SCHEUER: Thank you,
23 Commissioner Chang. Are there further comments on
24 this matter from the Commissioners?

25 I will note, I guess just for this

1 discussion, that sometimes there is concern in the
2 community over -- to echo Commissioner Okuda --
3 sometimes there is a series of possible choices of
4 who might be the Accepting Authority for a docket.
5 There is some flexibility there and some inclination
6 perhaps to become the Accepting Authority, so I think
7 it serves the public's interest to provide the
8 opportunity for them to express any concerns over our
9 taking up a motion to be the Accepting Authority in a
10 particular matter.

11 But I do, despite perhaps not being as
12 fervent a capitalist as Commissioner Cabral, I do
13 appreciate efficiency as well, which I will note we
14 have lost now in this proceeding thanks to
15 Commissioner Cabral's question.

16 I think we have nothing more for the
17 Petitioner. Thank you very much.

18 We're ready to move onto our next agenda
19 item, which is the City and County of Honolulu
20 Important Agricultural Lands designation matter,
21 however, given that the matter on the agenda is
22 scheduled for both today and tomorrow, and I believe
23 this discussion is actually better held over one day
24 rather than split over two days, my suggestion would
25 be to recess until tomorrow so we can take up the IAL

1 presentation by staff.

2 Are there any objections from the
3 Commissioners to this move? Seeing none, we will
4 recess until 9:00 A.M. tomorrow morning. Mahalo.

5 (The proceedings recessed at 9:33 a.m.)

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CERTIFICATE

STATE OF HAWAII)
) SS.
COUNTY OF HONOLULU)

I, JEAN MARIE McMANUS, do hereby certify:

That on February 10, 2021, at 9:00 a.m.,
the proceedings contained herein was taken down by me
in machine shorthand and was thereafter reduced to
typewriting under my supervision; that the foregoing
represents, to the best of my ability, a true and
correct copy of the proceedings had in the foregoing
matter.

I further certify that I am not of counsel for
any of the parties hereto, nor in any way interested
in the outcome of the cause named in this caption.

Dated this 10th day of February, 2021, in
Honolulu, Hawaii.

/s/ Jean Marie McManus
JEAN MARIE McMANUS, CSR #156