

LAND USE COMMISSION
STATE OF HAWAI'I

Hearing held on June 9, 2020
Commencing at 9:00 a.m.

Held via ZOOM by Interactive Conference Technology
and
YouTube Streaming Video link

I. Call to Order

II. Adoption of Minutes

III. Tentative Meeting Schedule

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

V. Recess/Adjournment

BEFORE: Jean Marie McManus, CSR #156

1 APPEARANCES:

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

6 STAFF:

WILLIAM WYNHOFF, ESQ.
7 Deputy Attorney General

8 DANIEL ORODENKER, Executive Officer
RILEY K. HAKODA, Planner/Chief Clerk
9 SCOTT DERRICKSON, AICP/Planner

10 DAWN APUNA, ESQ.
Deputy Attorney General
11 RODNEY FUNAKOSHI, Planning Program Director
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12 State of Hawaii, Office of Planning

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17 GRANT YOSHIMORI, Pro Se
18 RICH McCREEDY
For Intervenor Hui O Pikoiloa
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1 CHAIRPERSON SCHEUER: Aloha mai kakou.
2 Good morning to everybody both participating in the
3 meeting and attendees.

4 This is the June 9, 2020. I'm grateful
5 that we're all together virtually and we're able to
6 begin our important work.

7 This is the June 9, 2020 Land Use
8 Commission Meeting and is being held using
9 interactive conference technology linking
10 videoconference participants and other interested
11 individuals of the public via a "ZOOM" internet
12 conferencing program to comply with State and County
13 official operational directives during the current
14 world-wide pandemic health crisis.

15 Members of the public are viewing the
16 meeting via the "ZOOM" webinar platform and/or a
17 YouTube streaming video.

18 For all participants, please be aware that
19 unlike in-person meetings where our court reporter
20 can voice that she cannot hear us or ask us to
21 repeat, this is not possible in this venue.

22 So I would stress to everyone the
23 importance of speaking slowly and clearly and
24 directly into your microphone before speaking, and
25 also stating, as suggested by Commissioner Okuda,

1 your name for the record prior to speaking.

2 Please also be aware that all meeting
3 participants are being recorded on the digital record
4 of the "ZOOM" meeting and on the YouTube platform as
5 well. Your continued participation is your implied
6 consent to be part of the public record. If you do
7 not wish to be part of the public record, you should
8 exit the meeting.

9 The "ZOOM" conference technology allows the
10 Parties and each participating Commissioner
11 individual remote access to the meeting proceedings
12 via their personal digital devices.

13 The Land Use Commission Chair, currently
14 myself, Jonathan Scheuer, Commissioners Aczon, Chang,
15 Okuda and Wong, LUC Executive Officer Daniel
16 Orodener, Chief Clerk Riley Hakoda, support staff,
17 the LUC's Deputy Attorney General, Bill Wynhoff, and
18 the Court Reporter, Jean McManus, are on Oahu.

19 Commissioner Cabral is on the Big Island.
20 Commissioner Ohigashi is on Maui, and Commissioner
21 Giovanni is on Kauai.

22 There are currently eight seated
23 Commissioners.

24 Are there any questions or technical
25 problems at this time from any of the people in the

1 main part of the meeting? Seeing none.

2 Our first order of business is the adoption
3 of the May 6, 2020 minutes. Are there any
4 corrections or comments on the minutes? Confirming
5 with the -- Commissioner Cabral, please unmute
6 yourself.

7 VICE CHAIR CABRAL: My apologies, I will
8 try and be trained.

9 I would like to make a motion to accept the
10 minutes as written.

11 CHAIRPERSON SCHEUER: Okay. Let me first
12 confirm that there was no written public testimony
13 received on the minutes from Mr. Derrickson or Mr.
14 Hakoda.

15 CHIEF CLERK: None, Chair.

16 CHAIRPERSON SCHEUER: A motion has been
17 made to accept the minutes by Commissioner Cabral.
18 Is there a second?

19 COMMISSIONER WONG: Second.

20 CHAIRPERSON SCHEUER: It's been seconded by
21 Commissioner Wong.

22 Is there any discussion? Seeing none, Mr.
23 Orodenker, please take rollcall.

24 EXECUTIVE OFFICER: Thank you, Mr. Chair.
25 Commissioner Cabral?

1 VICE CHAIR CABRAL: Yes.

2 EXECUTIVE OFFICER: Commissioner Wong?

3 COMMISSIONER WONG: Aye.

4 EXECUTIVE OFFICER: Commissioner Ohigashi?

5 COMMISSIONER OHIGASHI: Yes.

6 EXECUTIVE OFFICER: Commissioner Okuda?

7 COMMISSIONER OKUDA: Yes.

8 EXECUTIVE OFFICER: Commissioner Giovanni?

9 COMMISSIONER GIOVANNI: Yes.

10 EXECUTIVE OFFICER: Commissioner Chang?

11 COMMISSIONER CHANG: Yes.

12 EXECUTIVE OFFICER: Commissioner Aczon?

13 VICE CHAIR ACZON: Yes.

14 EXECUTIVE OFFICER: Chair Scheuer?

15 CHAIRPERSON SCHEUER: Yes.

16 EXECUTIVE OFFICER: Thank you, Mr. Chair.

17 It was voted "yes" unanimously.

18 CHAIRPERSON SCHEUER: Thank you.

19 Our next agenda item is the tentative
20 meeting schedule. Mr. Orodénker.

21 Hold on, Mr. Orodénker, you're muted.

22 EXECUTIVE OFFICER: Mr. Chair, I was
23 unmuted.

24 Tomorrow we will be holding another hearing
25 meeting on this matter. Instructions have been

1 posted to the website as to how to attend and join.

2 June 24th we also have about -- time set
3 aside for another "ZOOM" meeting on this matter.

4 June 25th we will be having a "ZOOM"
5 meeting, virtual meeting in Hilo -- from Hilo on the
6 County of Hawaii's Motion for Declaratory Ruling. On
7 the A18-805, which is the Church matter; A18-804
8 which is the Barry matter, and A99-729 which is the
9 Hawaiian Islands Land Trust. That will be a status
10 report.

11 On July 8th we will be attempting to once
12 again begin in-person meetings. This meeting will be
13 held on Maui to resume the Ka'ono'ulu Ranch Motion to
14 Dismiss.

15 On July 9th we will also be on Maui for the
16 continuation of the Ka'ono'ulu Ranch matter, Central
17 Maui Landfill matter, Lana'i Acceptance of the EA,
18 and the Pu'uolehua adoption of -- (indecipherable)

19 On July 22nd we will be having a meeting on
20 Oahu for any further hearings on this matter, and
21 take up the A92-683 Hale Kua matter. That will also
22 be a live meeting.

23 On July 23rd we will be in Hilo on the U of
24 N Bancorp matter.

25 August 12th we will be in Hilo for the

1 University of Nations Order to Show Cause matter.

2 On August 13th, we will be again in Hilo
3 for the land trust matter and the Newt (phonetic)
4 family Motion to Amend.

5 On August 26 we will -- we have that set
6 aside for Ka'ono'ulu Motion once again.

7 And on the 27th we will also be on Maui for
8 Kihei High School and C. Brewer bifurcation.

9 September 9th we will again be on Maui for
10 the C. Brewer matter.

11 And on the 10th we will also be on Maui for
12 C. Brewer and the Motion to Amend for Hanohano.

13 On September 23rd we have tentatively set
14 aside that day for adoption of the motion of order in
15 this case should proceed and have enough time period.

16 And that takes us through October. Our
17 caution to the Commissioners that there are a lot of
18 petitions and motions and the like being filed as
19 recently -- so we do look to a very vigorous schedule
20 going into the end of the year.

21 CHAIRPERSON SCHEUER: Thank you very much,
22 Mr. Orodener.

23 Commissioners, any questions for Dan?
24 Seeing none.

25 Our next agenda item is Continued Hearing

1 and Action Meeting on Docket A17-804 Hawaiian
2 Memorial Life Plan, Ltd., to Consider Petition to
3 Amend the Conservation Land Use District Boundary
4 into the Urban Land Use District for Approximately
5 53.449 acres of land at Kane'ohe, Island of Oahu,
6 State of Hawai'i TMK (1)4-5-033, a portion of Lot 1.

7 Will the parties for Docket A17-804 please
8 identify themselves for the record? You may need to
9 each enable your audio.

10 MR. TABATA: Good morning, Chair, members
11 of the Commission, Curtis Tabata and Ben Matsubara
12 for the Petitioner Hawaiian Memorial Life Plan, Ltd.

13 CHAIRPERSON SCHEUER: County?

14 MR. PANG: Duane Pang, Deputy Corporation
15 Counsel on behalf of the City.

16 CHAIRPERSON SCHEUER: Office of Planning?

17 MS. APUNA: Deputy Attorney General, Dawn
18 Apuna on behalf of the State Office of Planning.

19 CHAIRPERSON SCHEUER: Intervenors for Hui O
20 Pikoiloa?

21 MR. YOSHIMORI: Good morning, everyone.
22 This is Grant Yoshimori and Rich McCreedy,
23 Intervenors Pro Se.

24 CHAIRPERSON SCHEUER: Did I miss anybody
25 who's appearing?

1 On January 22nd, which seems like about ten
2 years ago, the Commission met at Koolau Ballroom and
3 Conference Center in Kaneohe, Hawaii, for an Action
4 Meeting on this docket to consider the Petition to
5 Amend the Conservation Land Use District Boundary
6 into the Urban Land Use District and began
7 proceedings on this matter.

8 Petitioner had offered its witness Scott
9 Ezer and Robin Lim. Mr. Ezer suspended his testimony
10 to allow Mr. Lim to testify out of order since Mr.
11 Lim could not appear at another time.

12 Mr. Lim completed his testimony and was
13 excused. Mr. Ezer's questioning was to be continued
14 at a future LUC meeting on this matter.
15 Subsequently, the pandemic disrupted the planned
16 meeting schedule.

17 On May 6th the Commission had an Action
18 Meeting on this docket and granted the Extension of
19 Time for Decision Making to hear the Petition due to
20 the pandemic, and accompanying State and County
21 directives in place for public health protection.

22 From May 6th until recently, the Commission
23 received public comments via email and written
24 correspondence on this matter, which has been made
25 part of the record.

1 Also on May 6th the Commission received the
2 Petitioner's Supplemental List of Exhibits as well as
3 Exhibits 54 through 58.

4 On June 1st the Commission mailed the
5 June 9th and 10th Notice of Agenda to Parties and
6 Statewide, email and Oahu mailing lists.

7 On June 8th the Commission received the
8 Intervenor's Amended List of Exhibits and Exhibit 14
9 and Petitioner's Second Supplemental List of Exhibits
10 and Exhibit 15.

11 Now, let me briefly run over our intended
12 procedures for today.

13 First, I will recognize any written
14 testimony, public testimony received on this matter
15 identifying the person or organization who has
16 submitted the testimony.

17 Next, I will call for those individuals who
18 have preregistered to provide public testimony on
19 this docket. All individuals will be called into
20 this meeting by me. I will enable your audio and
21 video.

22 And so you'll be brought into our virtual
23 witness box where I will swear you in. You will have
24 two minutes to provide testimony, then you should
25 standby to see if there are questions from any of the

1 Parties or Commissioners for your testimony.

2 After all questions on your testimony have
3 been completed, I will then excuse you and put you
4 back into the attendee portion of this meeting; then
5 I'll call for the next will to appear.

6 After all registered testifiers have
7 completed their testimony, I'll call for any
8 individuals in the general audience who wish to
9 provide public testimony for this docket to identify
10 themselves by using the "raise hand" function on your
11 device screen.

12 You might check -- if you're in the
13 attendee room right now, check to see if you can find
14 the "raise hand" function, see if you can raise your
15 hand and lower it. Seeing a number of you. Just
16 keep testing, if you will.

17 You will also, if called in from the
18 audience and you've not registered to provide public
19 testimony, you will have two minutes to provide
20 testimony after being sworn in, and ask you to
21 standby in order to respond to any questions from the
22 Parties or Commissioners.

23 When all questions have been completed,
24 I'll excuse the witness to return to the audience.

25 After the completion of all testimony, I

1 will give the Parties the opportunity to admit
2 exhibits into the record.

3 After the admission of exhibits, the
4 Petitioner will resume presenting their case. Once
5 the Petitioner is completed, it will be followed by
6 City and County of Honolulu, State Office of
7 Planning, and then Intervenors Hui O Pikoiloa.

8 From time to time I will be holding
9 recesses in these proceedings both for a break for
10 the court reporter and for all of our eyes and our
11 bodies as we need to get up and stretch from our
12 seats.

13 Are there any questions from any of the
14 Parties or objections to our procedures for today,
15 starting with the Intervenor?

16 MR. YOSHIMORI: No questions from the
17 Intervenor, Grant Yoshimori.

18 CHAIRPERSON SCHEUER: Thank you for doing
19 exactly what I said, but I actually meant starting
20 with the Petitioner. Starting with the Petitioner.

21 MR. TABATA: Petitioner has no questions.

22 CHAIRPERSON SCHEUER: City?

23 MR. PANG: City has no questions or
24 objections.

25 CHAIRPERSON SCHEUER: OP?

1 MS. APUNA: State has no questions.

2 CHAIRPERSON SCHEUER: We have heard from
3 the Intervenor. Thank you very much.

4 I will now recognize public written
5 testimony submitted in this matter identifying a
6 person or organization submitting the testimony.

7 Give me a moment while I pull that up.

8 Written testimony on this matter has been
9 received from Kathleen O'Malley, on June 8th from Joy
10 Kimura and Cheryl Tyler, between June 6th and 7th
11 from Kathleen O'Malley, Timothy Deegan, Scot Z.
12 Matayoshi, Bronson Azama, Vanita Rae Smith, and Rene
13 Mansho.

14 On June 5th testimony was received from
15 Patrick Pollard.

16 On June 4 from Shaun McCreedy.

17 Also June 4 from the Pacific Resource
18 Partnership signed by Christopher Delaunay.

19 On June 3rd from Karen Galut, and on May 28
20 Trees for Honolulu's Future signed by Dan Dinell.

21 Commissioners, are there any questions
22 about the written testimony which has also been
23 posted on the website?

24 EXECUTIVE OFFICER: Commissioner Giovanni,
25 do you have a question?

1 COMMISSIONER GIOVANNI: I do. This is
2 Commissioner Giovanni.

3 Previously in these proceedings I made a
4 personal disclosure. Do I need to restate that at
5 this time or is that for this docket?

6 CHAIRPERSON SCHEUER: Thank you,
7 Commissioner Giovanni. I believe every single
8 Commissioner made some kind of disclosure related to
9 this docket. If there is no change in circumstance
10 or new matter that has arisen, you do not need to
11 repeat your disclosure.

12 COMMISSIONER GIOVANNI: Thank you. No
13 change in circumstance.

14 CHAIRPERSON SCHEUER: Are there any
15 questions about the written testimony received on
16 this matter from the Commissioners? Seeing none.

17 Next, I will call on individuals registered
18 to provide testimony. And bear with me as I pull
19 this up.

20 Our first testifier is Mark Harris followed
21 by Christopher Delaunay from Pacific Resources
22 Partnership.

23 Let me try and pull Mr. Harris into the
24 meeting if he has -- Mr. Harris, if you're here, can
25 you raise your hand? Not seeing Mr. Harris. I will

1 move on to representative from Pacific Resources
2 Partnership.

3 If you hear me calling your name, please
4 raise your hand so you can jump you to the top.

5 You're now joining the meeting as a
6 panelist, and please enable your video, if possible.

7 Good morning. Aloha.

8 THE WITNESS: Aloha, good morning.

9 CHAIRPERSON SCHEUER: I'm going to swear
10 you in, then I will ask you to conclude your
11 testimony in two minutes. And then hold on for any
12 questions from the Parties or Commissioners.

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

15 THE WITNESS: I do.

16 CHAIRPERSON SCHEUER: Please proceed.

17 CHRIS DELAUNAY

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: Good morning and aloha.
23 Chris Delaunay with Pacific Resources Partnership.
24 We stand in strong support of this project.

25 The Hawaiian Memorial Park is one of the

1 few active cemeteries on Oahu. The approval of HMP's
2 expansion plan will meet the needs of Hawaii's
3 families and growing senior population.

4 Hawaiian Memorial Park has made good faith
5 efforts to address cultural and environmental
6 concerns and expressions of public sentiment
7 regarding this project.

8 On an economic note, Hawaii is in the midst
9 of an economic recession from COVID-19. With over
10 220,000 unemployed Hawaii residents, now is the time
11 to expedite dockets that will provide local jobs and
12 solid investments in our people, our communities and
13 our State.

14 PRP respectfully requests this Commission
15 to approve expansion of the Hawaiian Memorial Park
16 project in the most expeditious manner possible.

17 Thank you for this opportunity to provide
18 our support for this project. Mahalo.

19 CHAIRPERSON SCHEUER: Mahalo for your
20 testimony.

21 Are there questions starting with
22 Petitioner?

23 MR. TABATA: No questions.

24 CHAIRPERSON SCHEUER: County?

25 MR. PANG: No questions from the County.

1 CHAIRPERSON SCHEUER: OP?

2 MS. APUNA: No questions.

3 CHAIRPERSON SCHEUER: Commissioners?

4 Commissioner Okuda.

5 COMMISSIONER OKUDA: This is Gary Okuda.

6 Thank you, Mr. Delaunay, very much for your
7 testimony. May I ask you this?

8 Pacific Resources Partnership, can you
9 describe what that organization is, or who's involved
10 just very, very briefly?

11 THE WITNESS: We represent over 240
12 general -- or contractors, and then we also represent
13 the Hawaii Regional Council.

14 COMMISSIONER OKUDA: Thank you.

15 Now, are you aware that the proposed
16 project here involves excavation of about 470,000
17 cubic yards of material, and only -- not all of those
18 materials will be filled on the site, meaning we have
19 testimony that about 57,000 cubic yards are intended
20 to be disposed of at the PVT landfill.

21 Are you aware of that?

22 THE WITNESS: I'm not aware of that.

23 COMMISSIONER OKUDA: The PVT landfill in
24 Nanakuli is the only landfill that is operating right
25 new on Oahu which may receive construction material

1 or debris; is that correct?

2 THE WITNESS: That's what I believe.

3 That's what I understand.

4 COMMISSIONER OKUDA: So in other words,
5 construction debris or materials from all other
6 construction projects on Oahu, if they are to be
7 disposed in a landfill, the only landfill they can go
8 to is PVT; correct?

9 THE WITNESS: That's what I understand,
10 yes.

11 COMMISSIONER OKUDA: And if that is the
12 case, if for some reason the PVT landfill is not
13 available, for example, if it's filled to capacity
14 and there is no place to dispose of construction
15 waste or debris, what would happen to those ongoing
16 construction projects?

17 THE WITNESS: You know, I'm not too sure if
18 I'm qualified to answer those questions, you know.
19 But I would assume that if there's, you know, not a
20 place to put the waste, then you have to have some
21 kind of a site, right, to dispose of it.

22 But I'm not too sure what the other options
23 are.

24 COMMISSIONER OKUDA: Well, at minimum,
25 would you agree that if you're a contractor, big,

1 small or medium, if for some reason the PVT landfill
2 was not available, for whatever reason, to take
3 construction materials, that would be an added cost
4 or possible delay to those other construction
5 projects; correct?

6 THE WITNESS: Sure, if you don't have a
7 place to put it, probably have to delay construction
8 projects. There will be some problems.

9 But, again, I mean, I'm not the person to
10 ask those questions specifically, because I don't
11 have the knowledge, expertise about PVT that would be
12 needed. Probably better to ask the contractors
13 specifically, or somebody more knowledgeable about
14 PVT than I am.

15 COMMISSIONER OKUDA: Just two more short
16 questions, because I'm asking more questions that I
17 think are more common-sense driven than expert --

18 THE WITNESS: I'm doing the best with my
19 limited knowledge answering what I can answer, but I
20 really don't know -- I'm just here to support the
21 project.

22 COMMISSIONER OKUDA: Would you support the
23 project, or would your organization support the
24 project if, in fact, there was a question whether or
25 not this project with 57,000-plus cubic yards of

1 material having to be disposed at the PVT landfill,
2 if that might cause some negative effect on the
3 landfill, would that raise a question to you and your
4 organization whether or not this project should be
5 supported?

6 THE WITNESS: You know, again, I'm just
7 here to support this project.

8 COMMISSIONER OKUDA: Final question is:
9 You have no knowledge one way or the other what the
10 effect would be of disposing 57,000-plus cubic yards
11 of material at PVT; correct?

12 THE WITNESS: I mean, I'm not an expert in
13 that area. I'm here to support the project, this
14 project.

15 COMMISSIONER OKUDA: Okay. Thank you very
16 much, Mr. Chair. No further questions. Thank very
17 much for taking time today to testify.

18 CHAIRPERSON SCHEUER: Thank you,
19 Commissioner Okuda.

20 Commissioners, any further questions for
21 the representative from PRP? Seeing none, thank you
22 very much for your testimony.

23 THE WITNESS: Thank you.

24 CHAIRPERSON SCHEUER: I will now figure out
25 how to demote you out of the meeting, bear with me.

1 Okay, our next person signed up for written
2 testimony, our third is Bronson Azama, who I saw in
3 the meeting room. I'm going to promote you to a
4 panelist and swear you in and ask you turn on your
5 microphone and your video, if possible.

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

8 THE WITNESS: Yes.

9 CHAIRPERSON SCHEUER: You have two minutes.
10 Please proceed and stick around for questions from
11 the Parties or the Commissioners.

12 BRONSON AZAMA

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: Aloha mai kakou. (Hawaiian
18 spoken).

19 Aloha, my name is Bronson Azama, kanaka,
20 and just a recent graduate of Castle High School, was
21 a part of that school group that came in January.

22 I just like to stand on my written
23 testimony against the project for reasons of the
24 environmental impact, the damage to natural
25 resources, as well as some damage to some, I guess

1 they considered minor sites, but I believe one of the
2 agricultural sites is listed as one.

3 But I know it was brought up earlier in the
4 previous testimony about -- diverse economy
5 (indecipherable) -- expansion of the project.
6 However, the project does bring much environmental
7 impact to our area, especially to Kaneohe Bay with
8 use of chemical fertilizers and just the burying
9 practices in general done by the Hawaiian Memorial.
10 And those long-term effects that affect the adjacent
11 fishpond which is fed by the streams that come from
12 that area.

13 So, basically, you're slowly damaging the
14 fishpond. Waikoloa has suffered a great deal already
15 from various chemical sources, and sources like golf
16 course and even Hawaiian Memorial Park is included in
17 this.

18 So for me, just to cause even more damage
19 of areas that could be used to grow food even, and to
20 even violate the Koolau greenbelt, which is intended
21 to preserve our space here on our side of the island,
22 and just not right on top of that, they allowing
23 these poisons allowing to enter our bay which is
24 where a lot of people still gather food to this day,
25 especially now with the whole COVID situation.

1 I've seen much more people going fishing.
2 So you definitely need to do whatever it is we can to
3 protect our natural resources.

4 CHAIRPERSON SCHEUER: That's two minutes.
5 Summarize, please.

6 THE WITNESS: In summary, I just stand
7 against this proposed development, standing on my
8 testimony which states the environmental reasons, the
9 cultural reasons, as well as the reasons that affect
10 our economy too.

11 CHAIRPERSON SCHEUER: Mahalo for your
12 participation. Please standby.

13 Are there questions for the witness from
14 the Petitioner?

15 MR. TABATA: No questions.

16 CHAIRPERSON SCHEUER: County?

17 MR. PANG: No questions from the City.

18 CHAIRPERSON SCHEUER: State?

19 MS. APUNA: No questions.

20 CHAIRPERSON SCHEUER: Intervenor?

21 MR. YOSHIMORI: I wanted to thank the
22 testifier for his testimony, and we have no
23 questions. Thank you.

24 CHAIRPERSON SCHEUER: Thank you.

25 Commissioners? Seeing none, I have one

1 question.

2 Have you been involved with restoration at
3 the fishponds?

4 THE WITNESS: Yes, I have. I've actually
5 volunteered.

6 CHAIRPERSON SCHEUER: Thank you very much
7 for your participation.

8 COMMISSIONER CHANG: Mr. Chair.

9 CHAIRPERSON SCHEUER: Commissioner Chang.

10 COMMISSIONER CHANG: Thank you.

11 Aloha, Bronson. Thank you so much for your
12 testimony and coming again today. I appreciate
13 throughout the technical difficulties. But let me
14 ask you this.

15 Do you consider yourself a cultural
16 practitioner? You sound very ma'a to the cultural
17 ways of Kaneohe.

18 THE WITNESS: I don't know. My definition
19 of a practitioner is so different. I'll just say
20 that I'm learning. I'm involved. I don't know.
21 Some of the cultural practitioners, they're way above
22 my experience, so I don't think I've reached their
23 level just yet.

24 COMMISSIONER CHANG: Mahalo for your
25 humility.

1 Have you been to the heiau or the cultural
2 sites on this particular property?

3 THE WITNESS: I visited this heiau on my
4 own time. I haven't gone with anybody. I would like
5 to learn more.

6 I reviewed part of the Cultural Impact
7 Assessment, and that's as far as it goes for me about
8 this area, as well as a few things that I've done
9 prior to even knowing anything about this Memorial
10 Park because -- (indecipherable).

11 COMMISSIONER CHANG: Based upon what you
12 reviewed in the documents regarding the cultural
13 preserve, do you believe that that is a benefit to
14 the community?

15 THE WITNESS: I believe -- I do like the
16 intention of the cultural preserve, and I do like
17 what it's doing. I don't see that as damaging to the
18 topography of the land.

19 I disagree with a few -- I know there is a
20 few areas that they're still standing on removing
21 some conditions (indecipherable) of those sites. For
22 me, every ounce of desecration, no matter how
23 vigorous, small, it's still desecration, but that's
24 just my personal belief.

25 But I do appreciate the intention and work

1 that's going on, consulting as well as the civic club
2 to really preserve the site.

3 COMMISSIONER CHANG: Thank you very much,
4 Bronson. I have no other questions.

5 THE WITNESS: Thank you.

6 CHAIRPERSON SCHEUER: Thank you,
7 Commissioner Chang. Sorry I missed your raised hand.
8 Thank you very much.

9 Are there any other questions for Mr.
10 Azama? Seeing none, mahalo.

11 THE WITNESS: Mahalo.

12 CHAIRPERSON SCHEUER: I'm doing a last call
13 for the registered testifier Mark Harris. I do not
14 see him as an attendee.

15 Are there any other members of the public,
16 attendees, who wish to testify on this matter? If
17 so, please raise your hand, using the raising hand
18 function in the attendee's window on your personal
19 device.

20 Ms. Loren Pokipala, I'm going to admit you
21 into the meeting. Please turn on your video and
22 audio. Aloha.

23 THE WITNESS: Aloha.

24 CHAIRPERSON SCHEUER: I'm going to swear
25 you in and same procedure as you've seen.

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

3 THE WITNESS: I do.

4 CHAIRPERSON SCHEUER: Please proceed.

5 LOREN POKIPALA

6 Was called as a public witness, was sworn to tell the
7 truth, was examined and testified as follows:

8 DIRECT EXAMINATION

9 THE WITNESS: Aloha kakou. I oppose the
10 expansion. Being born and raised in Kaneohe, I've
11 come to appreciate this place, but most importantly
12 for me is I built a relationship and a connection by
13 learning the mo'olelo and the wahi pana of this
14 place.

15 So to me this means I have a kuleana or
16 responsibility, and this is to make sure that the
17 aina is managed with utmost care so that our future
18 generations enjoy what we enjoy and they won't have
19 to suffer the consequences created by those of us
20 here today.

21 I know our people have been short-changed
22 many times, so we have to make sure we think about
23 how our decisions today impact everyone years from
24 now.

25 I thought about this issue, thinking about

1 the purpose of a graveyard. I have to ask myself
2 this question? If Hawaiian Memorial is expanding for
3 the demand of more gravesites, what's going to happen
4 30, 40, 50 years from now? They're going to need
5 more and more land for bodies. So are they going to
6 keep for asking for more land to expand?

7 Will our future generations have to keep
8 fighting this issue? Will our families be displaced
9 from their community?

10 So instead of asking for more land,
11 shouldn't they be strategizing how they can become
12 sustainable with what they have?

13 So if you're in support of this proposal,
14 or if you're undecided, this is the time. What does
15 aina or land mean to me? And if you don't know, then
16 that's probably most likely why you're in support or
17 unsure.

18 And so, you know, even some Hawaii
19 residents, they aren't connected to the aina, meaning
20 they don't grow their own food. They don't put their
21 hands in the dirt. They don't know the mo'olelo of
22 their ahupua'a. They don't have roots here. They
23 don't know.

24 CHAIRPERSON SCHEUER: Two minutes. If you
25 could summarize.

1 THE WITNESS: They don't see the real value
2 of the aina, basically monetary or other value, and
3 you don't even have to be Hawaiian to be connected to
4 the aina. If you call Hawaii your own home, you
5 drink the water from the aina, at some point you
6 probably eat the food from this aina, and breathe the
7 air. So it's not about money, supposed to be about
8 people. We're being stewards to the land.

9 So, you know, to conclude I just want to
10 challenge everyone to ask themselves: What does aina
11 mean to me? How does this expansion affect the aina?
12 And if you can't answer this, then you need to take
13 some time to learn, because we need to leave this
14 place better than we found it.

15 Okay, mahalo.

16 CHAIRPERSON SCHEUER: Mahalo.

17 Are there questions for the witness from
18 the Petitioner?

19 MR. TABATA: No questions.

20 CHAIRPERSON SCHEUER: County?

21 MR. PANG: No questions from the City.

22 CHAIRPERSON SCHEUER: Office of Planning?

23 MS. APUNA: No questions.

24 CHAIRPERSON SCHEUER: Intervenor?

25 MR. YOSHIMORI: We want to thank the

1 testifier, and we have no questions. Thank you.

2 CHAIRPERSON SCHEUER: Commissioners?

3 Commissioner Chang.

4 COMMISSIONER CHANG: Aloha, Loren. Thank
5 you so much for your testimony today, and I know you
6 came in January, I believe.

7 I wanted to ask you the same question that
8 I asked Bronson.

9 Have you been up to the site and visited
10 the heiau or any of the cultural sites that are up
11 there?

12 THE WITNESS: I haven't visited, but I've
13 had conversation with Auntie Mahealani Cypher, who is
14 one of the caretakers of that area. So this is like
15 maybe two or three years ago she had wanted to take
16 our students to visit the site, but weather --
17 something came up with the weather and she couldn't
18 go. But she's shared stories about the place.

19 And I do live right down the road, so I
20 kind of went by myself, but I stopped at the end of
21 the road. I didn't want to enter.

22 So before this all came, we kind of already
23 knew about it because she wanted us to be taking care
24 of it from Castle High School.

25 COMMISSIONER CHANG: Have you had an

1 opportunity to review the cultural preserve that's
2 being -- that was included in the proposal? I wanted
3 to know how you felt about that, or if you have any
4 comments about that?

5 THE WITNESS: Yeah, but I read portions of
6 it, and still I didn't feel right about it. Like,
7 you know, when people make commitment but nothing is
8 in writing, it doesn't -- it's not pono. And many
9 times I've seen promises being made, we will do this
10 for you, we will provide money, but it doesn't
11 happen.

12 COMMISSIONER CHANG: I appreciate the
13 candid answer. I have no other questions. Thank you
14 again for coming before us and providing us your
15 testimony.

16 THE WITNESS: Mahalo for this opportunity.

17 CHAIRPERSON SCHEUER: Are there further
18 questions from any of the Commissioners?

19 I would just, I guess, respond more than
20 question.

21 I appreciate your testimony very much. I
22 just want to speak, at least for myself, but I think
23 for many other Commissioners in this kuleana that we
24 each share as Commissioners.

25 We actually are obligated to keep an open

1 mind to all the evidence that's been presented. So I
2 don't come in with a stance towards this or in
3 opposition to this. Though I would say that at least
4 in my own personal practice I do feel very strong. I
5 have my own definition of "aina" and how I relate to
6 it, and the different places that I relate to it.

7 So we are obligated legally, and I believe
8 ethically, to listen to all the evidence and all the
9 witnesses and all the testimony to come to a
10 decision.

11 I just wanted to respond to your testimony.
12 Thank you very much for your testimony.

13 Is there anything further from any of the
14 Commissioners? If not, mahalo.

15 THE WITNESS: Mahalo nui.

16 CHAIRPERSON SCHEUER: Is there anyone else
17 who is an attendee in this meeting who wishes to
18 provide public testimony on this matter? I see Shaun
19 McCreedy. I see also Mark Harris. I'm going to do
20 Shaun McCreedy followed by Mark Harris who was
21 actually registered as a testifier. I'm going to
22 promote Shaun McCreedy into the panel.

23 When you come in, please enable your video
24 and audio.

25 Aloha, good morning.

1 THE WITNESS: Aloha, 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: Yes, I do.

6 CHAIRPERSON SCHEUER: You have two minutes
7 and then stick around for questions.

8 THE WITNESS: Thank you.

9 SHAUN McCREEDY

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: Thank you so much for
15 allowing me to testify today on behalf of my
16 neighborhood.

17 Being born and raised in Kaneohe, I am
18 extremely against the proposed Hawaiian Memorial Park
19 expansion.

20 The current coronavirus has made me view
21 death and society's way of memorializing our loved
22 ones in a different light. On an island with limited
23 space and natural resources, it would be wrong to
24 allow Service International Corporation to deforest,
25 severely grade and fill in our hillside and valleys

1 for 30,000 burial plots.

2 I am environmentally conscientious, as are
3 many other millennials, and will seek alternatives to
4 this outdated and antiquated means of interment.

5 An interesting article appeared recently in
6 Forbes magazine, How the Pandemic is Killing the
7 Death Industry. The current CEO of SCI, Tom Ryan,
8 insists that the pandemic will actually hurt their
9 funeral business. "Our ability to get in front of
10 the consumer is limited."

11 The article went on to state that the
12 pandemic severely limits SCI's ability to upsell the
13 bereaved. Their Texas-based corporation relies
14 heavily on pre-need cemetery plot sales. In these
15 uncertain times of COVID-19, unemployment and
16 financial instability, will local residents be able
17 to afford or even desire an elaborate \$20,000 or more
18 funeral with a mahogany casket, lavish flowers, and
19 an ornate tombstone?

20 This makes me wonder if SCI will attempt to
21 appeal to international clientele as well.

22 I am asking you to deny SCI's Petition for
23 a Boundary Amendment to rezone Kaneohe's Conservation
24 land to Urban District. Cremation rates have
25 actually surpassed burial rates in the US and will

1 continue to rise during this pandemic. Aging baby
2 boomers, millennials and cash-strapped families are
3 changing public opinion and creating a shift towards
4 the popularity of cremation, memorial technology and
5 other eco-friendly alternatives.

6 Times are changing. How will SCI adapt and
7 adjust their funeral practices to alleviate their
8 financial pressures and provide guidance for shifting
9 consumer preferences? I am asking you to also not
10 create a horrible precedence for other conservation
11 land on the rest of the Windward side and North
12 Shore. Please do not allow them to destroy Kaneohe's
13 Conservation lands to its natural resources to
14 maximize SCI's profits.

15 Thank you for your time and consideration.

16 CHAIRPERSON SCHEUER: Thank you, Mr.
17 McCreedy. That was two minutes on the button.

18 Are there questions from the Petitioner?

19 MR. TABATA: No questions.

20 MR. PANG: No questions from the City.

21 MS. APUNA: No questions from the State.

22 MR. YOSHIMORI: Intervenor would like to
23 thank the testifier and we have no questions. Thank
24 you.

25 CHAIRPERSON SCHEUER: Commissioner Okuda.

1 COMMISSIONER OKUDA: Mr. McCreedy, thank
2 you for testifying. Are you also one of the
3 intervenors?

4 THE WITNESS: I am not.

5 COMMISSIONER OKUDA: Okay, I'm sorry. I
6 wrote something down wrong. Let me ask you this.

7 You know, as the Chair said, we have to
8 keep an open mind until all the evidence is in, so
9 please don't take any of our questions to indicate or
10 mean that any of us who are asking questions are bias
11 one way or the other.

12 Many times we ask these questions just to
13 test what people have to say, or to help educate us.
14 You understand that, correct?

15 THE WITNESS: Certainly.

16 COMMISSIONER OKUDA: Let me ask you this.

17 Hawaiian Memorial Park, and I guess its
18 parent corporation SCI, is offering a cultural
19 preserve and a conservation easement. Later on in
20 this hearing I'm sure we are going to get into the
21 details or lack thereof with respect to that, but
22 just looking at that offer of what they're willing to
23 put down, you know, ten years ago the community
24 opposed this type of expansion, it was defeated. Now
25 approximately ten years later, you know, there is

1 another push for redesignation of conservation land.
2 And, you know, there is a possibility that if the
3 Commission today denies or rejects this request for
4 the boundary amendment, ten years from now somebody
5 else will come back and ask for redesignation of the
6 conservation land into urban, or something else that
7 allows development.

8 Don't you think that there is a benefit to
9 the community to maybe take what's being offered now,
10 even though it might not be what everybody wants
11 100 percent?

12 THE WITNESS: That's a good question.
13 Honestly, my problem is, especially with the way that
14 burials are done today, I mean, I understand what
15 you're saying, but I just don't see how compromising
16 with deforesting, taking conservation land in order
17 to maintain a conservation site like that is going to
18 be sort of worth that effort.

19 I mean, to me, I would much rather stand up
20 to fight for a sustainable way to allow the needs of
21 (indecipherable) -- that need to get done going
22 forward, will not be degrading our hillside and
23 destroying important watershed region.

24 So, yes, although the cultural site is very
25 important to think about, I think that there are

1 smarter ways that we can maintain that without having
2 to compromise and destroy our watershed in the
3 process.

4 COMMISSIONER OKUDA: Thank you very much.

5 CHAIRPERSON SCHEUER: Are there any further
6 questions for Mr. McCreedy? Seeing none. Thank you
7 very much for your testimony and your participation.
8 Really appreciate it.

9 In the audience is a registered testifier
10 Mr. Mark Harris. I'm going to be admitting him into
11 the meeting. When you come in, please enable your
12 microphone and your video.

13 Mr. Harris, are you able to turn on your
14 video as well?

15 THE WITNESS: Certainly, aloha.

16 CHAIRPERSON SCHEUER: Aloha. Can I ask you
17 before you begin your testimony, did you have any
18 problems getting into the meeting earlier, because I
19 had called earlier for your name, but thought that
20 you weren't in as an attendee.

21 THE WITNESS: Not as technically savvy as I
22 probably should be, but I did make it.

23 CHAIRPERSON SCHEUER: Okay. Thank you very
24 much. I'm going to swear you in and you have two
25 minutes and then stick around for questions.

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

3 THE WITNESS: I do.

4 MARK HARRIS

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: After hearing testimony from
10 others, I kind of probably echo some of the same
11 things that they have already said, but having been a
12 graduate of Castle, raised in Kaneohe, played in this
13 area that they are talking about expanding to,
14 witnessed some of the things that have already been
15 lost, that I'm not sure if anybody actually talked
16 about there once was a waterfall that ran all the way
17 to the bay from that area that is already developed
18 on Mokulele.

19 When we talk about opportunities, cultural
20 sites and things of this nature, in my mind the whole
21 area is a cultural site. It is probably one of the
22 last large open green spaces in Kaneohe which was
23 once considered the country.

24 As we move forward in this kind of
25 decisions, certainly economics do play a role, but I

1 don't see the funeral business as actually lucrative
2 for local people. One of the things that hasn't been
3 talked about is robots at gravesites now.

4 The cost of burial is obviously high. It's
5 a profit-based business, it's not a community
6 business. How will we be able to look back in the
7 ten years that were mentioned earlier and look at
8 this decision as a benefit for the community?

9 I only see the corporate dollars being
10 actually honored in this deal that it is being
11 proposed, but at the end of the day, housing will be
12 on the table in ten years.

13 If you pass this, housing will be on the
14 table in ten years because making money off of
15 funerals is not their plan. Their original proposal
16 was housing.

17 So I am sure that they can wait out the ten
18 years as we address this real issue which is the
19 housing.

20 The other part of it is sustainability.
21 It's agricultural land. Why would we not return it
22 to agricultural land? When I was a kid, it was a
23 banana patch, something that was sustainable. We
24 don't seem to value farm land the way we do other
25 entities.

1 I think it's very important that we look at
2 it from that cultural perspective that there are
3 people growing traditional foods that could probably
4 do well with that property if we reallocate it.

5 I think the expansion of a funeral site
6 does not put money in the pockets of very many
7 people, nor does it provide nourishment, or as was
8 spoken earlier, the greenhouse effect, the climate
9 change. Those are real.

10 When I was a kid, a lot in Kaneohe, but the
11 way it rains now, I don't see the bio swells as being
12 effective to change the flood patterns. I don't
13 really believe that the environmental study of that
14 particular area was done. They used a study from
15 another area to replicate what was possible.

16 CHAIRPERSON SCHEUER: Mr. Harris, it's been
17 two minutes. Ask you to summarize your testimony,
18 please.

19 THE WITNESS: Thank you. With the two
20 minutes and my summary is this.

21 Sustainability is not around funeral homes
22 or funerals or gravesites. Sustainability is
23 vegetables, pineapples, guava, papayas, that's
24 sustainability.

25 CHAIRPERSON SCHEUER: Thank you. Are there

1 questions for the witness?

2 MR. TABATA: Petitioner has no questions.

3 MR. PANG: No questions from the City.

4 MS. APUNA: No questions from the State.

5 MR. YOSHIMORI: Intervenor thanks the
6 testifier and we have no questions. Thank you.

7 CHAIRPERSON SCHEUER: Commissioner Chang.

8 COMMISSIONER CHANG: Thank you, Mr. Harris,
9 for your testimony.

10 It sounds like you have lived in this area,
11 sounds like, for most of your life.

12 THE WITNESS: Yes, 45-170 Ohaha Place.

13 COMMISSIONER CHANG: So that's right below
14 the existing Memorial Cemetery?

15 THE WITNESS: Yes.

16 COMMISSIONER CHANG: You raised a good
17 point about who knows in ten years if they don't get
18 this they may come back for affordable housing,
19 because that was always their intention.

20 Do you -- it's my understanding that under
21 their proposal, they are looking at, out of -- to put
22 28 acres into cemetery, 14 acres into the cultural
23 preserve and the remainder of their property would
24 stay in a conservation easement, which would prevent
25 any future development, including housing.

1 Does that address some of your concerns
2 about some certainty into the future that this land
3 could be turned into a housing development, or
4 anything other than a cemetery and cultural preserve?

5 THE WITNESS: I think that I feel strongly
6 about the agricultural benefit as opposed to just a
7 cultural benefit. I think the part that is missing
8 in my mind is they still can address the housing in
9 ten years. There's no "in perpetuity" clause in
10 there that says they can never revisit this.

11 So if we're in the -- and this is kind of
12 how I read this -- if this is the compromise, then
13 that language should be there somewhere that we would
14 never have this conversation again.

15 COMMISSIONER CHANG: And that's a good
16 point. And that's my understanding of the
17 conservation easement, is that it would be held by a
18 third party. I don't know what the status of the
19 negotiations with the Hawaiian Islands Land Trust,
20 but if it was in a conservation easement in
21 perpetuity to ensure that the land would not be
22 developed into housing, would that make you feel more
23 comfortable?

24 THE WITNESS: I think that it isn't even
25 for me that I'm actually engaged in this activity,

1 it's for the children who may not have had the
2 experiences that I have had.

3 I think one of the things I could say as a
4 resident of Hawaii, and in my mind one of the sons of
5 Hawaii, is I had a great childhood. Great, great
6 opportunity to meet all kinds of people, especially
7 in the area that is proposed to be changed.

8 It was our Shangri-La, if you will. So
9 there is an emotional attachment for me there also.

10 But being practical, I think the greatest
11 challenge before us is the groups that we are going
12 into disagreement with have one of the strongest
13 lobbies in the country, so why would I believe that
14 this should be off the table based on the language
15 that's been presented in their proposal? There is no
16 commitment in perpetuity as I just stated.

17 COMMISSIONER CHANG: Thank you so much, Mr.
18 Harris. I really appreciate your testimony. I too
19 am from the Windward side, which is God's country, so
20 I agree with you. It doesn't get better than that to
21 be born and raised in Kaneohe. Mahalo.

22 THE WITNESS: Mahalo.

23 CHAIRPERSON SCHEUER: Further questions?

24 Mr. Harris, I would just note that my
25 mother was, before she passed away, was very active

1 in the Episcopal Church and held your late mother in
2 the highest esteem.

3 THE WITNESS: Thank you.

4 CHAIRPERSON SCHEUER: Commissioner Cabral.

5 VICE CHAIR CABRAL: Yes, I just would like
6 to thank all of the testifiers for coming forward.
7 And I feel the conflict, because I know our job is to
8 try and figure out how to deal with all of the
9 different requests.

10 Clearly, I appreciate the fact that they're
11 living on the Windward side. I in fact used to live
12 right there in Kahaluu, but I'm now in Hilo, and I
13 think I'm here because I have more space and more
14 land and more openness.

15 So I appreciate that desire, yet I
16 recognize the need for population growth and those
17 demands, and appreciate the concern, especially since
18 COVID-19 has taken place.

19 What is our future going to hold for
20 funerals? Are we going to get to the point that the
21 government mandates everybody be cremated, or can we
22 go back to putting everybody in our own backyard?
23 It's a huge question, and I do appreciate the
24 conflict, and I want to assure everybody that we are
25 trying to weigh everything, and do the best job

1 possible for everybody present and for the community.

2 So I just want to thank everybody for their
3 input. Thank you.

4 CHAIRPERSON SCHEUER: Thank you,
5 Commissioner Cabral.

6 Are there any other questions or comments
7 from the Commissioners? If not, thank you very much,
8 Mr. Harris, for your testimony.

9 THE WITNESS: Thank you.

10 CHAIRPERSON SCHEUER: Are there any other
11 members of the audience wishing to provide public
12 testimony at this time? If so, raise your hand. If
13 not, I will close public testimony and call for a
14 ten-minute break on the call of the Chair.

15 Are there any other individuals wishing to
16 provide public testimony? If not, by my clock it is
17 10:04, and we should be back in front of our screens
18 at 10:14. Mahalo.

19 (Recess taken.)

20 CHAIRPERSON SCHEUER: It's 10:14. I'm
21 going to tap my computer pad and call us back into
22 session.

23 We have concluded public testimony on this
24 matter, and we're now going to the entering of the
25 exhibits.

1 Mr. Tabata, please describe your new
2 exhibits which you wish to have admitted to the
3 record.

4 MR. TABATA: Thank you, Chair. Petitioner
5 has additional Exhibits 54 through 59. Exhibits 54
6 and 55 are updated site plans to help better explain
7 the project.

8 Exhibit 56 is an opinion poll prepared by
9 SMS.

10 Exhibit 57 is a letter dated May 1st, 2020
11 from Summer J. Waring, III to yourself, Chair
12 Scheuer.

13 Exhibit 58 is a letter dated February 12th,
14 2020 from Department of Transportation to OP.

15 And Exhibit 59 is a revised market study
16 tables that were prepared just yesterday, and in
17 response to the Intervenor's Exhibit 15.

18 We request, Chair, that Exhibits 54 through
19 59 be admitted into evidence.

20 CHAIRPERSON SCHEUER: Thank you very much,
21 Mr. Tabata. Any objections from the Parties?

22 MR. PANG: City has no objections.

23 MS. APUNA: No objections from the State.

24 MR. YOSHIMORI: Intervenor has no
25 objections.

1 CHAIRPERSON SCHEUER: Commissioners? Sorry
2 I paused. Unlike in hearing room, everybody's video
3 spaces got changed, so I looked for the wrong place
4 for Intervenor. I think I know where you are now.

5 No objections from any of the
6 Commissioners? Seeing none. Exhibits 54 through 59
7 are admitted into the record.

8 (Petitioner's Exhibits 54-59 were received
9 into evidence.)

10 County.

11 MR. PANG: County has no further exhibits,
12 Mr. Chair.

13 CHAIRPERSON SCHEUER: Ms. Apuna.

14 MS. APUNA: OP would like to replace
15 Exhibit 9, replacing James Caldwell's CV with Cynthia
16 King.

17 And then we would like to offer Exhibit
18 No. 10, which is a State Department of Transportation
19 letter dated February 12th, 2020.

20 CHAIRPERSON SCHEUER: Are there any
21 objections from the Parties?

22 MR. TABATA: Petitioner has no objections.

23 MR. PANG: City has no objections.

24 MR. YOSHIMORI: Intervenors have no
25 objections.

1 CHAIRPERSON SCHEUER: Commissioners?
2 Seeing none, Exhibit replacement 9 and Exhibit 10 are
3 admitted into the record.

4 (State's Exhibit replacement 9 and Exhibit
5 10 were received into evidence.)

6 And Mr. Yoshimori.

7 MR. YOSHIMORI: Intervenors would like to
8 admit into the record Exhibit No. 15, which is our
9 analysis of the CBRE market study.

10 CHAIRPERSON SCHEUER: Are there any
11 objections to this being entered into the record?

12 MR. TABATA: Petitioner has no objection.

13 MR. PANG: City has no objections.

14 MS. APUNA: State has no objections.

15 CHAIRPERSON SCHEUER: Commissioners?
16 Seeing none, the exhibit is entered into the record.

17 (Intervenor's Exhibit 15 was received into
18 evidence.)

19 With that, we can resume with the
20 Petitioner's presentation of our case.

21 Mr. Tabata, I believe Scott Ezer is your
22 next witness.

23 MR. TABATA: Yes, Chair, thank you.

24 CHAIRPERSON SCHEUER: Is Mr. Ezer an
25 attendee or with you physically?

1 MR. TABATA: He is an attendee and he can
2 be found under account name HMP-1. I believe that's
3 how it appears.

4 CHAIRPERSON SCHEUER: So I see two accounts
5 that are HMP-2 and none that are HMP-1.

6 Mr. Ezer, if you can hear me, please raise
7 your hand with your digital device. There we go. I
8 am moving you up. Please enable your audio and
9 video.

10 Good morning, Mr. Ezer.

11 THE WITNESS: Good morning, Chair.

12 CHAIRPERSON SCHEUER: While we have sworn
13 you in once, given the good deal of time and change
14 since we last had you, I will swear you in again.

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

17 THE WITNESS: I do.

18 CHAIRPERSON SCHEUER: Mr. Tabata, your
19 witness.

20 SCOTT EZER

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

24 MR. TABATA: Thank you, Chair. I believe
25 when we left off, that Mr. Ezer was on

1 cross-examination. I have no questions for him at
2 this time. I believe we're continuing his cross.

3 CHAIRPERSON SCHEUER: Apologies for that.
4 Questions from -- before -- I see your hand, Mr.
5 Okuda, but let me check with any of the parties if
6 there's no objection from the Petitioner. Are there
7 questions from any of the Parties?

8 MR. PANG: I think the City had finished
9 their cross-examination.

10 CHAIRPERSON SCHEUER: OP?

11 MS. APUNA: No questions from OP.

12 CHAIRPERSON SCHEUER: Intervenors?

13 MR. YOSHIMORI: No questions.

14 CHAIRPERSON SCHEUER: Commissioner Okuda.

15 COMMISSIONER OKUDA: Good morning again,
16 Mr. Ezer. I'm going to continue where I left off, if
17 that's okay with you.

18 THE WITNESS: Certainly.

19 COMMISSIONER OKUDA: You know, when we last
20 left off, I was asking you questions about the cuts
21 and fills that were being proposed to be made into
22 the Oneawa Hills, you know, just so you recall what
23 we were talking about.

24 The proposed or estimated amount of
25 materials that will be excavated will be 470,960

1 cubic yards; is that correct?

2 THE WITNESS: If that is the amount that's
3 referred to the EIS, then, yes, that is correct.

4 COMMISSIONER OKUDA: I'm taking that from
5 the Final EIS at page 2-31, and the estimated fill
6 amount was 413,673 cubic yards.

7 Does that sound about right?

8 THE WITNESS: It does, yes.

9 COMMISSIONER OKUDA: And so the estimated
10 amount that would be removed from the site and
11 disposed of would be 57,287 cubic yards.

12 Does that sound about right also?

13 THE WITNESS: It does.

14 COMMISSIONER OKUDA: When we left off, the
15 question that I had pending before we took Mr. Lim
16 out of order, you know, to accommodate his schedule,
17 was with respect to the visual impacts of the
18 proposed cuts into the Oneawa Hills.

19 Do you have a vague recollection of what
20 we're talking about?

21 THE WITNESS: I do, Commissioner.

22 COMMISSIONER OKUDA: And I think where we
23 left the questioning off was I asked whether or not
24 there was something in the record which indicated or
25 showed what the visual impact would be of having one

1 or more 70-foot high cuts into the Oneawa Hills, and
2 I believe your response was that there is a visual
3 analysis contained in the EIS which presents a
4 computer simulation of what the results would be of
5 the development of the project in that area.

6 I'm taking that from page 213 of
7 transcript, lines 11 to 25.

8 Does that kind of ring a bell or refresh
9 your recollection?

10 THE WITNESS: It does, yes.

11 COMMISSIONER OKUDA: Then I asked if you
12 could point to where in the record by page number
13 where those computer simulations are, and that's
14 where we kind of left off the questioning to take
15 into the engineer's testimony.

16 Going back to where we left off, can you
17 identify where in the record are the computer
18 simulations of the visual impacts of the cuts in the
19 Oneawa Hills?

20 THE WITNESS: The images that appear in
21 Petitioner's exhibit begin on page 4-89, and run
22 through page 4-92.

23 Also include page 4-94, page 4-95, and page
24 4-96.

25 COMMISSIONER OKUDA: Thank you very much.

1 Now, given your experience as a planner in
2 the community, are there any other properties or
3 parcels available on Oahu that could be developed
4 into a cemetery, of course, with the proper
5 entitlements or boundary changes or boundary
6 designations, if necessary, where you would not have
7 to have these types of cuts made into an existing
8 mountain?

9 THE WITNESS: I could not preclude that
10 there would be other properties somewhere else on
11 Oahu that would be suitable for cemetery development.

12 COMMISSIONER OKUDA: And you could not
13 preclude, of course, that these other properties
14 would not necessarily require these types of
15 excavations or cuts into existing mountain sides;
16 correct?

17 THE WITNESS: That is correct, I could not
18 preclude that possibility.

19 COMMISSIONER OKUDA: Okay. Now, with the
20 projected amounts of excavation of material which are
21 going to have to be removed from the site, that's the
22 57,287 cubic yards of materials. That would amount
23 to a little over 3,800 dump trucks or dump truck
24 loads if we figured 15 cubic yards per truck that
25 would have to be hauled from Kaneohe to the PVT

1 Nanakuli landfill, correct?

2 THE WITNESS: That certainly would require
3 a large number of trucks, depending on the exact size
4 of the truck. Whether they actually go to the PVT
5 landfill or not, is another question.

6 COMMISSIONER OKUDA: Well, the documents
7 that have been filed in support of this Boundary
8 Amendment Petition specifically state that the
9 materials would be disposed of at the PVT landfill in
10 Nanakuli, correct?

11 THE WITNESS: That is correct.

12 COMMISSIONER OKUDA: Where in the record is
13 there any indication that the materials would be
14 disposed anywhere else?

15 THE WITNESS: There's nothing in the record
16 to date.

17 COMMISSIONER OKUDA: And in making the
18 decision in this case, the Land Use Commission is
19 limited to what is in the record, correct?

20 THE WITNESS: I understand that, yes.

21 COMMISSIONER OKUDA: Since the last
22 hearing, or actually at any time, is there anything
23 in the record which documents or deals with the
24 impact or effect of having 3,800 dump truck loads
25 going from Kaneohe, the site of the proposed

1 expansion, to Nanakuli, to the PVT landfill?

2 THE WITNESS: There is a discussion of
3 traffic impacts associated with the construction
4 activities.

5 COMMISSIONER OKUDA: And what in the
6 record, or what does the record state about what the
7 traffic impacts are of trucking 3,800-plus dump truck
8 loads from Kaneohe to Nanakuli?

9 THE WITNESS: The construction-related
10 impacts are not anticipated to be significant. It's
11 important to understand that the number of trucks
12 that would be coming and going from the property
13 related to removing excess material are going to
14 happen over an 18-month time period. They're not
15 going to happen in a week or a month, they're spread
16 out over a significant period of time.

17 So on any given day there wouldn't be that
18 many trucks leaving the property.

19 COMMISSIONER OKUDA: Is there any evidence
20 in the record which states what the specific amount
21 of dump truck loads per day would be?

22 THE WITNESS: Not to my knowledge, no.

23 COMMISSIONER OKUDA: Is there anything in
24 the record that states the anticipated amount of days
25 that those dump truck loads -- whatever they may

1 be -- would be taking place between Kaneohe and
2 Nanakuli?

3 THE WITNESS: There is no specific
4 discussion of that. It would certainly depend on
5 construction activities that were ongoing at any
6 given point in time.

7 COMMISSIONER OKUDA: Now, is there anything
8 in the record -- let me back up a bit again.

9 You do agree that the PVT landfill in
10 Nanakuli is the only landfill with a permit to take
11 construction debris on Oahu, correct?

12 THE WITNESS: To my knowledge, correct.

13 COMMISSIONER OKUDA: And so, for example,
14 if I am engaged in, let's say, a hotel renovation, or
15 like a shovel-ready project, because that seems to be
16 what the government wants to do, and I had to dispose
17 of construction waste or debris, the only place I
18 could dispose of it is at the PVT landfill in
19 Nanakuli; correct?

20 THE WITNESS: Construction waste, that's
21 the only landfill that will accept construction
22 waste.

23 COMMISSIONER OKUDA: Right. And if I have
24 construction waste, which I cannot dispose of, what
25 would be the effect on my construction project?

1 THE WITNESS: I'm not really qualified to
2 discuss what may or may not happen with any given
3 construction project. It would be an issue for that
4 project.

5 COMMISSIONER OKUDA: Right. Assuming that
6 I don't illegally dump the construction waste
7 someplace, it's going to be something that is not
8 necessarily going to be a positive situation for me
9 as a contractor; correct?

10 THE WITNESS: I would imagine it would
11 create a problem for you.

12 COMMISSIONER OKUDA: Is there any evidence
13 in the record that PVT has agreed to accept
14 52,000-plus cubic yards of excavated materials?

15 THE WITNESS: Not that I'm aware of. I
16 would like to suggest that any questions you have
17 specifically related to PVT would be better handled
18 by our civil engineer who will be testifying later.

19 COMMISSIONER OKUDA: Okay. So I should
20 hold all my PVT questions for the civil engineer,
21 correct?

22 THE WITNESS: Yes.

23 COMMISSIONER OKUDA: But you, as the
24 planner that overlooked what the submissions were,
25 you're familiar with what is in the record in

1 general; correct?

2 THE WITNESS: In general, yes.

3 COMMISSIONER OKUDA: And given your
4 knowledge and your supervision of what Hawaiian
5 Memorial Park submitted with this application or
6 request for boundary amendment, is there something in
7 the record which indicates that PVT has agreed to
8 accept the materials that would be excavated and
9 removed from the Hawaiian Memorial Park expansion
10 site if the expansion were to be approved?

11 THE WITNESS: That specifically -- to
12 answer your question, there's nothing in the record
13 to indicate that, but that ordinarily comes up at the
14 time of the grading permit, review of the grading
15 plans by the City and County.

16 COMMISSIONER OKUDA: I understand that.

17 But if -- your plan to expand the cemetery
18 only works if you can remove the 57,000-plus cubic
19 yards of material, correct?

20 THE WITNESS: That is correct.

21 And, again, I would like to suggest that
22 specific questions related to grading and the impacts
23 associated with the grading be reserved for the civil
24 engineer.

25 COMMISSIONER OKUDA: Okay. My last overall

1 question just regarding PVT is -- I just want to make
2 sure whether you had any information about whether or
3 not, you know, we have, as we colloquial say, have
4 all our ducks in line about where the last duck is
5 going to end up.

6 So you can't point to anything in the
7 record which shows that PVT has agreed to accept the
8 excavation material, correct?

9 THE WITNESS: Correct.

10 COMMISSIONER OKUDA: Now, during the
11 construction phase of the expansion of the cemetery
12 there will be short-term impacts, and those impacts
13 will be significant; correct?

14 THE WITNESS: I don't believe we
15 characterized impacts as "significant". There will
16 be short-term effects associated with construction.

17 COMMISSIONER OKUDA: Can you please look at
18 your Final EIS at page ES-5 and see if you can see
19 that paragraph that starts with the phrase
20 "significant short-term impacts are anticipated
21 during the project's construction phase".

22 Do you see that sentence?

23 THE WITNESS: I do, I do. And it also
24 indicates that in that same sentence that there will
25 be BMPs implemented to mitigate those impacts.

1 COMMISSIONER OKUDA: Yeah, sure, and we
2 will get to the BMPs, which means best management
3 practices; correct?

4 THE WITNESS: That is correct.

5 COMMISSIONER OKUDA: But my first question
6 was a foundational question whether or not there
7 would be short-term impacts during the construction
8 phase, and whether those impacts would be
9 significant.

10 So will there be significant short-term
11 impacts during the project's construction phase, or
12 will there not be significant short-term impacts?

13 THE WITNESS: They are anticipated, but
14 they will be mitigated. And that's why, when you go
15 through the analysis, you try to identify potential
16 significant impacts, and then mitigate them.

17 COMMISSIONER OKUDA: Okay. Well, I was
18 just first figuring out whether we've got significant
19 short-term impacts.

20 Can you please list for me what are those
21 significant short-term impacts which are anticipated
22 during the project's construction phase?

23 THE WITNESS: Again, I would like to
24 suggest that you address your questions related to
25 grading and construction to the civil engineer.

1 COMMISSIONER OKUDA: So are you, as the
2 planner who supervised the submission of these
3 documents, able to tell me in general what those
4 significant short-term impacts are which are
5 anticipated?

6 THE WITNESS: I could -- yes, I can
7 describe those in general terms.

8 COMMISSIONER OKUDA: Can you please
9 describe in general terms what those significant
10 short-term impacts are which are anticipated?

11 THE WITNESS: With regard to construction,
12 it would be runoff. It would be airborne particles,
13 dust that might be generated by the wind. Noise.
14 Those would be the biggest impacts that I can think
15 of today in a general sense.

16 COMMISSIONER OKUDA: Soil runoff has been
17 one of the primary causes of spoiling Kaneohe Bay,
18 isn't that correct?

19 THE WITNESS: That is a long-term problem
20 that has been identified over the course of many
21 years, yes.

22 COMMISSIONER OKUDA: And I recognize the
23 fact that if I recall your testimony and background
24 correctly, you were a City and County lifeguard, so
25 you're basically a water guy. I mean love of the

1 ocean, that's fair to say, right?

2 THE WITNESS: That is fair to say.

3 COMMISSIONER OKUDA: And at one time
4 Kaneohe Bay was once pristine and had coral which
5 some might say rivals Hanauma Bay, correct?

6 THE WITNESS: I can't attest to that.

7 COMMISSIONER OKUDA: Well, in any event,
8 control of runoff is important to the restoration of
9 Kaneohe Bay; is that correct?

10 THE WITNESS: That is correct.

11 COMMISSIONER OKUDA: Being that that's a
12 matter that we should consider, can you point to
13 where in the record there is a calculation of the
14 probable amount of the potential runoff from the
15 estimated excavation of the 479,000-plus cubic yards
16 of material?

17 THE WITNESS: There's a section in the EIS
18 related to water quality.

19 COMMISSIONER OKUDA: Is there a calculation
20 there of the probable amount of the potential runoff?

21 THE WITNESS: Yes. Yes, there is.

22 COMMISSIONER OKUDA: What page is that at,
23 please?

24 THE WITNESS: In section 3.712 there's a
25 discussion of surface flow water rates, section 3.8 has

1 a discussion on water quality. Section 3.81 has a
2 description of existing conditions in Kawa Stream.

3 And there's a following very detailed
4 discussion of the Lipalu Watershed and contributions
5 that go into Kawa Stream that wind of up in Kaneohe
6 Bay.

7 Section 3.812 has a section on water
8 quality sampling that was done.

9 We also have a testifier that will appear
10 before you after my testimony, that is a water
11 quality expert that conducted a very exhaustive study
12 of runoff in Kawa Stream, and associated with this
13 project and a historical review of the condition and
14 quality of the water within Kawa Stream and Kaneohe
15 Bay, and the impacts that are anticipated as a result
16 of this project to affect Kawa Stream and Kaneohe
17 Bay. And he can describe in great detail his work,
18 his analysis, and his recommendations.

19 COMMISSIONER OKUDA: Okay, but I'm looking
20 for something a little bit more narrow and specific.
21 And I read through those materials, and sometimes
22 when I read through these sections I might miss
23 something, so I'm trying to find out, is there a
24 specific estimated cubic yard estimate of the amount
25 of cubic yards of material which is anticipated to

1 runoff into Kaneohe Bay from this construction?

2 THE WITNESS: There is a description of the
3 anticipated sediment load that would reach Kawa
4 Stream and Kaneohe Bay that is included in the water
5 quality analysis that was performed by our water
6 quality expert.

7 COMMISSIONER OKUDA: And what is the load
8 that is anticipated to come off of the site during
9 construction?

10 THE WITNESS: I don't have that information
11 at my fingertips right now, and I think the water
12 quality consultant would be best suited to answer
13 that question.

14 COMMISSIONER OKUDA: Okay, sure.

15 I will hold those questions then until we
16 get to the water quality consultant.

17 Now, are there any endangered species on
18 the property for which this boundary amendment is
19 being asked to apply to?

20 THE WITNESS: Yes.

21 COMMISSIONER OKUDA: What endangered specie
22 or species are in the proposed expansion area or on
23 the parcel?

24 THE WITNESS: The Hawaiian Blackline
25 Damselfly.

1 COMMISSIONER OKUDA: Besides the damselfly
2 that you saw identified, are there any other
3 endangered species on the property?

4 THE WITNESS: Not that come to mind, no.

5 COMMISSIONER OKUDA: And this damselfly
6 that you have identified is protected by federal law,
7 correct?

8 THE WITNESS: It is recognized as an
9 endangered species by federal law, yes.

10 COMMISSIONER OKUDA: Can you please tell
11 me -- and I'm not asking for a legal opinion, I'm
12 just asking for your understanding as a planner --
13 what does the federal law require when a species like
14 the damselfly has been identified to be on a parcel
15 of property?

16 THE WITNESS: There are different layers
17 that are associated with how that works. And in this
18 case, because we do not have something that's
19 referred to as a federal nexus, the Federal
20 Endangered Species Act does not kick in, so you do
21 not have to undergo consultation at a federal level
22 with the U.S. Fish and Wildlife Service. So there
23 are no federal permits.

24 But there is an obligation and a
25 requirement to protect the endangered species and its

1 habitat.

2 COMMISSIONER OKUDA: And even though there
3 is no necessary -- or you state that there's no
4 requirement for permitting, the Federal Fish and
5 Wildlife Services did raise concerns about the
6 proposed cemetery expansion, correct?

7 THE WITNESS: They did, yes.

8 COMMISSIONER OKUDA: And that was contained
9 in their letter dated October 23, 2018, which I
10 believe you submitted as an Appendix A-2 to the Final
11 EIS; does that sound about right?

12 THE WITNESS: I would imagine it does, yes.

13 COMMISSIONER OKUDA: And one of the
14 concerns that the Fish and Wildlife Service raise was
15 that the expansion of the cemetery would be
16 immediately detrimental to the integrity and
17 potential long-term survival of the damselfly; isn't
18 that true?

19 That's one of their concerns of this
20 immediate detrimental effect to integrity and
21 potential long-term survival of the damselfly?

22 THE WITNESS: If they put it in their
23 letter, then I would assume that is concern for them.

24 COMMISSIONER OKUDA: You might take a look
25 at page 3 of the letter, and if later on you disagree

1 that's what they said, you can point it out and we
2 can go back to that letter.

3 And if you want, I can read that paragraph.
4 I'll represent to you the letter does state that the
5 service believe it would be this immediate
6 detrimental effect.

7 May I ask you this? Is there any document
8 in the record that the U.S. Fish and Wildlife Service
9 has modified or withdrawn its stated concern about
10 this immediate detrimental effect to the integrity
11 and potential long-term survival of the endangered
12 species the damselfly?

13 THE WITNESS: Not to my knowledge. But I
14 would also recommend that if you have specific
15 questions related to the damselfly habitat and the
16 impact of the project to the damselfly and its
17 habitat, that those would best be discussed by our
18 entomologist, Dr. Steven Montgomery.

19 COMMISSIONER OKUDA: I may do so. I'm just
20 trying to find out whether or not there has been any
21 change in position of the federal service. That's
22 basically the point of these questions.

23 Do you know of any evidence in the record
24 which indicates that the service's concern about this
25 immediate detrimental effect to the integrity and

1 potential long-term survival of the damselfly,
2 whether that opinion by the service is not correct?

3 THE WITNESS: I'm not sure I understand
4 your question. Are you asking me whether I agree
5 with their assessment, or that it's correct that
6 they've said that --

7 COMMISSIONER OKUDA: I'm sorry for not
8 being clear.

9 The service is saying that it believes that
10 the project will be -- or have an immediate
11 detrimental effect to the damselfly.

12 My question is, is there anything in the
13 record -- and you can identify that by page number --
14 which shows that that opinion by the service is not
15 correct?

16 THE WITNESS: I have no other evidence in
17 the record that shows that the service may have
18 changed their position.

19 COMMISSIONER OKUDA: I'm not asking for
20 them changing their position, I'm asking for evidence
21 in the record which shows that their position is
22 wrong.

23 THE WITNESS: Thank you for clarifying
24 that, Commissioner.

25 We do believe that that statement presented

1 by U.S. Fish and Wildlife Service is not correct, and
2 we will have that fully covered in future testimony
3 by our entomologist, Dr. Steven Montgomery.

4 COMMISSIONER OKUDA: So I'll maybe wait on
5 the damselfly question for the entomologist. Would
6 that be a better person to ask about that?

7 THE WITNESS: It would. Thank you.

8 CHAIRPERSON SCHEUER: Mr. Okuda, if I may,
9 Commissioner. I would draw a differentiation between
10 the expertise of the entomologist on biological
11 questions versus any policy or legally permitted
12 related questions.

13 COMMISSIONER OKUDA: Yes, Mr. Chair. Thank
14 you.

15 If you can bear with me, I'm trying to skip
16 over the entomology questions.

17 Mr. Ezer, if we could turn to the
18 conservation easement and the cultural preserve.

19 The last time there were some questions,
20 there was a question about whether or not there was
21 in fact an agreement with the Hawaiian Islands Land
22 Trust about the specific terms and conditions as far
23 as what would be part of this conservation easement.

24 Do you recall those questions?

25 THE WITNESS: I do recall those questions.

1 COMMISSIONER OKUDA: I think I asked
2 somebody whether or not Hawaiian Memorial Park or its
3 parent SCI and the Hawaiian Islands Land Trust have
4 or have not an agreement as to the specific terms and
5 conditions as far as what the terms and conditions
6 would be of the conservation easement.

7 And is there an agreement as of today about
8 what the specific terms and conditions would be of
9 the conservation easement, or is there no specific
10 agreement?

11 THE WITNESS: There is no agreement at this
12 time.

13 COMMISSIONER OKUDA: Has the Hawaiian
14 Islands Land Trust agreed in writing to acquire and
15 hold the conservation easement -- when I use the term
16 "acquire and hold" -- I mean to use that phrase as it
17 is used in HRS Chapter 198 which deals with
18 conservation easements.

19 So is there an agreement in writing with
20 HILT, or it to acquire and hold the conservation
21 easement?

22 THE WITNESS: Not at this time, no.

23 COMMISSIONER OKUDA: Is there even an oral
24 agreement with HILT to acquire and hold the
25 conservation easement?

1 THE WITNESS: There is no agreement for
2 them to acquire and hold.

3 COMMISSIONER OKUDA: Is there an agreement
4 whether oral or in writing with any other entity
5 which meets the qualifications of HRS section 198-3?
6 That's a section which spells out or describes what
7 entities are qualified to acquire and hold a
8 conservation easement.

9 Is there any agreement oral or written with
10 any other such entity that qualifies under HRS
11 section 198-3 to acquire and hold the conservation
12 easement which is being proposed by the Petitioner in
13 this Boundary Amendment Petition?

14 THE WITNESS: At this time, there is not,
15 and I would suggest to the Commissioner that any
16 specific questions you have regarding the
17 conservation easement should be addressed to the
18 Petitioner, Mr. Morford.

19 COMMISSIONER OKUDA: Okay. But -- okay, I
20 understand that. Maybe I'll hold those questions
21 also.

22 Let me ask you this, since you were the
23 planner in charge of submitting this application to
24 the Commission.

25 If we look at HRS section 198-2(d), that's

1 the section that describes generally the content or
2 substance of a conservation easement. And what that
3 section states, and I quote, "(e) the particular
4 characteristics of a conservation easement shall be
5 those granted or specified in the instrument creating
6 or transferring the easement."

7 Can you tell me where in the record, even
8 if there is no agreement, where the particular
9 characteristics of the conservation easement, which
10 is being thought of to be proposed or granted in the
11 future, where those particular characteristics are
12 listed or stated?

13 THE WITNESS: As I suggested, there are no
14 particulars at this time for the easement. Again, I
15 would suggest that any specific questions you have
16 regarding the easement should be addressed and
17 answered by Mr. Morford, Petitioner.

18 COMMISSIONER OKUDA: Okay. And would that
19 also be with respect to the specifics of the cultural
20 preserve?

21 THE WITNESS: The cultural preserve will be
22 addressed by Dr. Trish Watson, another testifier
23 later on.

24 COMMISSIONER OKUDA: I'll hold most of my
25 questions for her, but may I ask you this, Mr. Ezer?

1 Is there anything in the record which
2 specifically states what the specific terms and
3 conditions of the cultural preserve will be?

4 THE WITNESS: At this time, no.

5 COMMISSIONER OKUDA: Is there anything in
6 the record which indicates whether or not the
7 cultural preserve or the grantee of the cultural
8 preserve or the grant of the cultural preserve, is
9 that going to be in the form of an easement, a deed
10 or some other type of land transferred document or
11 maybe no land transferred document?

12 THE WITNESS: It is my understanding that
13 the cultural preserve will be included as part of the
14 conservation easement, but a cultural preserve itself
15 would be managed by the Koolaupoko Civic Club under
16 the auspices of the conservation easement.

17 COMMISSIONER OKUDA: Where in the record
18 does it state that the cultural preserve will be --
19 the provisions of the cultural preserve will be
20 included in the conservation easement?

21 THE WITNESS: I know it's in the Final EIS.
22 It is in Appendix K, page 160 of Appendix K.

23 COMMISSIONER OKUDA: Has the Koolaupoko
24 Hawaiian Civic Club agreed in writing to be the
25 manager of the property under the conservation

1 easement?

2 THE WITNESS: Again, I think that question
3 should best be addressed to Dr. Watson.

4 COMMISSIONER OKUDA: Can you point to
5 anything in the record which indicates that the
6 Koolaupoko Hawaiian Civic Club has agreed to be the
7 manager under the conservation easement?

8 THE WITNESS: At this moment, I can't point
9 to that. I don't know. I think it would be, again,
10 a question best addressed to Dr. Watson.

11 COMMISSIONER OKUDA: So maybe I should hold
12 the questions about the cultural preserve for
13 Dr. Watson.

14 THE WITNESS: Yes.

15 COMMISSIONER OKUDA: Let me see if I can
16 skip over some of these points here.

17 This is related to it, but you tell me
18 whether I should ask Dr. Watson about this.

19 But who or which entity will be responsible
20 for health and safety issues which may occur within
21 the cultural preserve?

22 THE WITNESS: That would be best addressed
23 to Dr. Watson.

24 COMMISSIONER OKUDA: Okay. Who would be
25 responsible for health and safety issues of property

1 which are subject to the conservation easement?

2 THE WITNESS: I don't know. That could be
3 a question you address to the Petitioner and/or to
4 Dr. Watson.

5 COMMISSIONER OKUDA: Who would be
6 responsible for maintenance within the conservation
7 easement?

8 THE WITNESS: Those are issues that would
9 be addressed at the time the specific details for the
10 conservation easement are written, and those have not
11 been written yet.

12 COMMISSIONER OKUDA: And it's possible when
13 you start putting out some of these details about
14 responsibility, the Hawaii Islands Land Trust or
15 Koolaupoko Hawaiian Civic Club, or maybe both of them
16 might decide to decline to be part of this because of
17 responsibilities, correct?

18 THE WITNESS: I couldn't address that. And
19 again, just to be clear -- I'll leave it at that. I
20 couldn't answer that question for either of them, for
21 any entity that might be part of that agreement in
22 the future.

23 COMMISSIONER OKUDA: Okay, but anyway I
24 should address these questions to Petitioner or
25 Dr. Watson, correct?

1 THE WITNESS: Yes.

2 COMMISSIONER OKUDA: Let me see if I can
3 then skip over these questions I had written
4 regarding that.

5 Can you give us any information about what
6 the specific discussions were with the Hawaiian
7 Islands Land Trust or the Koolaupoko Hawaiian Civic
8 Club about the substance of either the conservation
9 easement or the cultural preserve?

10 THE WITNESS: No, I can't. And, again,
11 that would be better addressed by the Petitioner and
12 Dr. Watson.

13 COMMISSIONER OKUDA: Then let me go to a
14 more broader question regarding the basis for
15 properties being in the conservation zone.

16 You did hear the testimony of Mr. Lim about
17 what the foreseeability of injury or death from
18 rockfall would be in the expanded cemetery area,
19 correct?

20 THE WITNESS: Yes.

21 COMMISSIONER OKUDA: And so you recall that
22 when I asked Mr. Lim the question, my question was,
23 and I quote:

24 "It's foreseeable that people could be
25 going into the expanded cemetery area to visit their

1 loved ones, and they might be fatally injured or
2 seriously injured by doing so, correct?"

3 And the witness answered: "That is
4 correct. Nothing in life is guaranteed."

5 Is that your recollection of his testimony?
6 And I quoted from page 224 of the transcript, lines 1
7 through 21.

8 Is that your recollection of what he
9 testified?

10 THE WITNESS: Yes.

11 COMMISSIONER OKUDA: And, in fact, backing
12 up a bit, Mr. Lim was testifying about the area which
13 is going to be the expanded cemetery, correct?

14 THE WITNESS: I don't recollect exactly
15 what that question referred to, whether it was in the
16 expanded cemetery or whether you were referring to
17 the cultural preserve.

18 COMMISSIONER OKUDA: Let me read the
19 question here, wait one moment, please.

20 "COMMISSIONER OKUDA" -- so the question by
21 me, and let me read from the transcript directly.

22 "COMMISSIONER OKUDA: So in other words,
23 you're contemplating that it's foreseeable that
24 people could be going into the expanded cemetery area
25 to visit their loved ones, and they might be fatally

1 injured or seriously injured by doing so, correct?

2 "THE WITNESS: That is correct. Nothing in
3 life is guaranteed."

4 And that's from the transcript page 224,
5 lines 1 through 21.

6 So you agree the question dealt with people
7 going into the expanded cemetery area, correct?

8 THE WITNESS: It appears so.

9 COMMISSIONER OKUDA: And your engineer, who
10 you rely on for his expertise, testified that it is
11 foreseeable that they could be fatally injured or
12 seriously injured by going into that area; correct?

13 THE WITNESS: It appears that was his
14 response.

15 COMMISSIONER OKUDA: And, in fact, isn't it
16 true that your engineers, Geolabs, G-e-o-l-a-b-s,
17 stated that, in fact, there's a greater risk for
18 potential rockfall encroachment in the area that's
19 going to be subject to the conservation easement or
20 the cultural preserve?

21 THE WITNESS: I don't recollect that.

22 COMMISSIONER OKUDA: Let me see if I can
23 just read a very short portion from the Geolabs'
24 report, which is section 3.1 at page 15, see if that
25 helps your recollection.

1 And I quote: "The greater risk for
2 potential rockfall encroachment involves the
3 subvalley at the far most northeastern portion of the
4 project site where the cultural preservation area is
5 proposed.

6 "Based on our reconnaissance, this portion
7 of the project site may have at least a moderate
8 potential for potentially dangerous rockfall
9 activity. The greater risk and hazard is due to the
10 large number and large size of existing boulder
11 deposits encountered on the lower elevation slopes
12 within the proposed cultural preservation area. The
13 existing bolder deposit and their depositional
14 characteristics suggest evidence for significant
15 older rockfall events with deposits that reside
16 within the proposed cultural preservation area.

17 "In addition, there appears to be a more
18 frequent occurrence of widely scattered, large block,
19 high relief, massive rock outcroppings that could
20 represent potential rockfall source materials on the
21 higher elevation slopes above the cultural
22 preservation subvalley."

23 Again, that's from section 3.1 of the
24 Geolabs' report at page 15.

25 Does that refresh your recollection about

1 the fact that there is increased or greater risk of
2 serious bodily injury or potential fatal injury in
3 the cultural preserve area?

4 THE WITNESS: If you have specific
5 questions related to rockfall hazard and rockfall
6 impact and potential rockfall, I am not an expert in
7 rockfall hazard, and I believe that those questions
8 should be addressed by Mr. Lim.

9 COMMISSIONER OKUDA: Okay. But the
10 documents you presented shows that rockfall
11 mitigation measures will be taken above the area of
12 the cemetery expansion, but no such mitigation
13 efforts will be taken above or with respect to the
14 cultural preserve area; correct?

15 CHAIRPERSON SCHEUER: Commissioner Okuda,
16 if I may. We have been going about another hour, and
17 I'm not at all trying to suggest that you cut short
18 your questioning, but I want to get to a natural
19 breaking point.

20 COMMISSIONER OKUDA: That's fine. This is
21 a good point.

22 CHAIRPERSON SCHEUER: Do you want to answer
23 that question and then we will take a break?

24 THE WITNESS: I believe, Chair,
25 Commissioner Okuda's observation is correct.

1 COMMISSIONER OKUDA: Thank you.

2 Chair, we can continue after the break.

3 CHAIRPERSON SCHEUER: It is now 11:12.

4 Commissioner Okuda, do you anticipate that you will
5 need longer than a half hour to conclude your
6 questioning of Mr. Ezer?

7 COMMISSIONER OKUDA: I hope not, Mr. Chair.

8 CHAIRPERSON SCHEUER: So we will -- it is
9 11:12 by my clock. We will reconvene at 11:22, and
10 continue with questioning Mr. Ezer. Thank you very
11 much.

12 (Recess taken.)

13 CHAIRPERSON SCHEUER: It's 11:22. We're
14 back on the record.

15 Commissioner Wong.

16 COMMISSIONER WONG: We're looking for
17 Commissioner Cabral.

18 CHAIRPERSON SCHEUER: Commissioner Cabral,
19 if you can hear us --

20 COMMISSIONER OHIGASHI: I just wanted to
21 make a comment that during these times, changing
22 times, there are things that still say the same.

23 CHAIRPERSON SCHEUER: Commissioner Cabral?
24 Sorry, everybody who is participating or watching.
25 We are waiting for Commissioner Cabral to come back

1 to her screen.

2 Welcome back, Commissioner Cabral. We can
3 resume. And it is the questioning of Mr. Ezer by
4 Commissioner Okuda.

5 COMMISSIONER OKUDA: This is Gary Okuda.
6 Thank you, Mr. Chair.

7 So, Mr. Ezer, far as matters regarding
8 hazards from rockfall, you would defer to your
9 engineer, Mr. Lim, and his company Geolabs; is that
10 correct?

11 THE WITNESS: Yes, that is correct.

12 COMMISSIONER OKUDA: Were you present when
13 Mr. Lim gave testimony about leaving certain
14 properties in conservation? And just so that I'm
15 clear, let me read from line 22 of the transcript at
16 page 224 to line 2 at page 225.

17 "Yes, that's correct. Nothing in life is
18 guaranteed. But isn't it true that that's one of the
19 purposes of having real property designated
20 conservation so that we don't invite people to go
21 into dangerous areas?"

22 And the witness' reply was: "In general,
23 that is true".

24 Do you recall Mr. Lim giving such testimony
25 at the last hearing?

1 THE WITNESS: I do not recall that. I was
2 not in the room for the entirety of the testimony.

3 COMMISSIONER OKUDA: Well, assuming that I
4 have accurately read that portion of the transcript,
5 do you disagree with Mr. Lim's testimony that one of
6 the purposes of having real property designated
7 conservation is so that we don't invite people to go
8 into dangerous areas?

9 THE WITNESS: Could you ask that question
10 again, please?

11 COMMISSIONER OKUDA: Do you agree with Mr.
12 Lim's testimony that it is generally true that one of
13 the reasons why we have -- or we leave property
14 designated conservation, is so that we don't invite
15 people to go into dangerous areas?

16 THE WITNESS: I'm not really sure how to
17 answer that question, and the conservation district
18 rules are complex.

19 CHAIRPERSON SCHEUER: Do you want to
20 rephrase, Commissioner Okuda?

21 COMMISSIONER OKUDA: Let me try one more
22 time.

23 Mr. Ezer, I'm just looking at what Mr. Lim
24 testified to. Do you disagree with his testimony in
25 any way?

1 THE WITNESS: I'm not in a position to
2 disagree with Mr. Lim's testimony. And I believe
3 that if you have further questions regarding rockfall
4 hazards or Lim's testimony, it should be directed to
5 Mr. Lim.

6 COMMISSIONER OKUDA: At this point in time
7 I have no problem with his testimony, I'm just trying
8 to find out whether you disagree, but anyway let me
9 move on.

10 Isn't it true that even within the cultural
11 preserve area there is anticipation that there will
12 be burials?

13 THE WITNESS: That has been represented in
14 the EIS. That is correct.

15 COMMISSIONER OKUDA: And, in fact, a
16 resolution of the Association of Hawaiian Civic Clubs
17 was submitted as Exhibit 26 to the Petitioner's
18 presentation; is that true?

19 THE WITNESS: I would believe that that is
20 accurate, yes.

21 COMMISSIONER OKUDA: And on page 2 of the
22 resolution there is a "whereas" clause which states,
23 and I quote:

24 "Whereas the landowner has begun meetings
25 with the Hawaiian Islands Land Trust and the

1 Koolaupoko Hawaiian Civic Club to plan for
2 establishment of the cultural preserve, including the
3 setting aside of 100 Native Hawaiian burial spaces."

4 Does that sound like I read that provision
5 of the resolution, which was submitted as part of
6 Exhibit 26 to the Commission, does it sound like I
7 read it accurately?

8 THE WITNESS: I would assume so, yes. But
9 any questions regarding any conversations that may
10 have been had regarding burials in the cultural
11 preserve should be directed to the Petitioner or Mr.
12 Morford.

13 COMMISSIONER OKUDA: But in any event,
14 again, you were supervising the submission of the
15 exhibits to the Commission, so you're aware of this
16 statement in the resolution; correct?

17 THE WITNESS: Yes, I am.

18 COMMISSIONER OKUDA: So as a professional
19 planner, does that raise any concern about public
20 safety to you that there would be 100 Native Hawaiian
21 burials in the cultural preserve area which is not
22 going to be having any rockfall mitigation measures
23 done? Does that raise any concern about public
24 safety to you?

25 THE WITNESS: Not necessarily. It would

1 depend on the location of where the burials are in
2 relation to where there might be perceived hazards
3 associated with rockfall.

4 COMMISSIONER OKUDA: So do you have a
5 concern, or you don't have a concern, or you don't
6 know?

7 THE WITNESS: I do not have a concern with
8 respect to the burials.

9 COMMISSIONER OKUDA: So do you foresee any
10 risk of bodily injury, including death, to people
11 coming on to the cultural preserve area where the
12 Geolabs report itself has indicated a higher risk of
13 rockfall hazard, and where your Petition indicates
14 there will be no mitigation efforts, do you see any
15 foreseeable risk of bodily injury or death?

16 THE WITNESS: Again, that is a question
17 that is better directed to Mr. Lim and his area of
18 expertise.

19 COMMISSIONER OKUDA: Is there anything in
20 the record which indicates whether there will be
21 charges, a fee charge, costs, with respect to these
22 Native Hawaiian burials or Native Hawaiian burial
23 spaces within the cultural preserve?

24 I mean, is it going to be done for free?
25 Is there going to be a charge? How much? Is there

1 anything in the record that deals with disclosure of
2 those facts?

3 THE WITNESS: Not to my knowledge. But,
4 again, any questions related to those burials should
5 be directed to the Petitioner, Mr. Morford.

6 COMMISSIONER OKUDA: Do you believe you
7 have any knowledge or expertise with respect to
8 conservation easements?

9 THE WITNESS: No, I do not.

10 COMMISSIONER OKUDA: Let me try to then
11 skip over some of my other questions regarding the
12 cultural preserve since I'm going to have to go and
13 reserve my questions for some other witness.

14 Now, the statute, HRS section 205-2(e)
15 describes what areas shall be in Conservation
16 District, correct?

17 THE WITNESS: Assuming your citation is
18 accurate, I would say, yes.

19 COMMISSIONER OKUDA: Let me quote the
20 beginning part of section 205-2(e), and I quote:

21 "Conservation District shall include areas
22 necessary for" -- and then it goes on with a
23 description.

24 So the beginning part of that statute uses
25 the word "shall". Do you agree?

1 THE WITNESS: Could you repeat the -- if
2 you have that section of the HRS available and could
3 make that available by screen share, that would be
4 wonderful.

5 COMMISSIONER OKUDA: Sorry, I can't because
6 I'm running this off of my iPad. Well, let me ask
7 the question this way.

8 Assuming that I accurately read the first
9 sentence of section 205-2(e), the word "shall", or
10 when the legislature uses the word "shall" s-h-a-l-l,
11 that's a mandatory command from the legislature.

12 Do you agree with that?

13 THE WITNESS: That is the legal construct
14 of the term as I understand it.

15 COMMISSIONER OKUDA): And if you could just
16 bear with me a bit, because, you know, since we're
17 dealing with a request to redesignate land from the
18 Conservation District, it's probably important we
19 focus in on the statute.

20 And it says: Conservation Districts shall
21 include areas necessary for protecting watersheds and
22 water sources; preserving scenic and historic areas;
23 providing park lands, wilderness and beach reserves;
24 conserving indigenous or endemic plants, fish and
25 wildlife, including those which are threatened or

1 endangered; preventing floods and soil erosion;
2 forestry; open space areas whose existing openness,
3 natural condition or present state of use, if
4 retained, would enhance the present or potential
5 value of abutting or surrounding communities, or
6 would maintain or enhance the conservation of natural
7 or scenic resources."

8 And the statute continues on about
9 recreation areas, and things like that.

10 May I ask you this? Can you please
11 identify where in the record there's evidence that
12 the parcel at question here does not meet the
13 standards set forth for conservation designation as
14 set forth in HRS Section 205-2(e).

15 THE WITNESS: I'm not sure I'm really clear
16 on what you're asking me to respond to.

17 COMMISSIONER OKUDA: Okay.

18 Can you point to where in the record there
19 is an analysis that the parcel of property that we're
20 dealing with here shouldn't belong in the
21 Conservation District? When I say "shouldn't
22 belong", according to the standards set forth in the
23 statute which I just quoted.

24 THE WITNESS: Well, in the Final EIS in
25 section, in Chapter, 6 there's lengthy discussion

1 about the relationship of the property to the
2 Conservation District, and how the project is
3 consistent with the opportunity to remove the land
4 from the Conservation District and put it into the
5 Urban District.

6 COMMISSIONER OKUDA: Anything else in the
7 record, or it's basically Chapter 6?

8 THE WITNESS: I believe it is Chapter 6.

9 COMMISSIONER OKUDA: Would the Oneawa Hills
10 be more scenic with the cuts or without the proposed
11 excavations and cuts?

12 THE WITNESS: That's a subjective analysis,
13 and in its broadest context, and we were very
14 aggressive in our analysis of the impact of the
15 proposed cemetery on the hillside and the surrounding
16 areas with respect to visual impacts.

17 From a distance the area would look green
18 as it appears to look now. From most areas in and
19 around the proposed cemetery expansion, most of the
20 cemetery expansion area would not be visible.

21 So the activity, the construction
22 activities would be limited to the lower slopes of
23 the hillside and the majority of the hillside would
24 be left intact. There may be some who object to any
25 change to the hillside.

1 Again, in a larger context, and
2 understanding that visual analysis is subjective, it
3 would be my opinion that the visual impacts would be
4 minimal.

5 COMMISSIONER OKUDA: And let me ask this
6 question, because this seems to be something that
7 recent decisions of the Hawaii Supreme Court seem to
8 be alluding to, and that's the provision of
9 constitutional Article XI, Section 1. And if I can
10 just read it so that we know what context my
11 questions are at.

12 The section of the constitution states, and
13 I quote:

14 "For the benefit of present and future
15 generations, the State and its political subdivision
16 shall conserve and protect Hawaii's natural beauty
17 and all natural resources including land, water, air,
18 minerals and energy sources, and shall promote the
19 development and utilization of these resources in a
20 manner consistent with their conservation, and in
21 furtherance of the self-sufficiency of the State."

22 Does it sound like I read that section of
23 the constitution correctly?

24 THE WITNESS: Without you putting it on
25 share screen, I would have to assume that you read it

1 correctly.

2 COMMISSIONER OKUDA: I'm sure if I didn't,
3 somebody will point that out.

4 Now, during the hearing on the
5 Environmental Impact Statement there was testimony
6 that the gross revenues, which would come from sales
7 and operations in what's now the Conservation zoned
8 area if it were redesignated Urban could move into
9 the area of half a billion dollars, meaning 500
10 million.

11 Do you recall that testimony?

12 THE WITNESS: Not completely. But, again,
13 if you have questions related to the market aspect or
14 financial feasibility of the project, those should be
15 directed to Mr. Morford or our marketing consultant.

16 COMMISSIONER OKUDA: This is not just
17 marketing or things like that, this goes to basically
18 the fundamental planning issue which is whether or
19 not we're complying with the overall requirements of
20 the Hawaii Constitution, specifically the issue of
21 self-sufficiency.

22 May I ask you this? Is there anything in
23 the record which indicates what percentage of this
24 half billion dollars will remain in the State of
25 Hawaii?

1 THE WITNESS: Again, I think that your
2 questions regarding the financial aspects of the
3 project should be directed to Mr. Morford and another
4 one of our witnesses, Dr. Watson, is prepared to
5 address questions related to the State Constitution.

6 COMMISSIONER OKUDA: Okay, but I'm asking
7 about documentation which you supervised and
8 submitted.

9 Is there anything in the documentation or
10 evidence that you submitted or supervised to be
11 submitted to the Land Use Commission which indicates
12 how much of this half a billion dollars is going to
13 remain in the community?

14 THE WITNESS: I do not know, and I'm not
15 quite sure that the Petitioner is the source of that
16 number.

17 COMMISSIONER OKUDA: Just so that the
18 record is clear, let me read from page 120 of the
19 transcript of that EIS hearing, lines 13 to 22, and
20 this was my question.

21 "So, I mean, is it reasonable to say that
22 Hawaiian Memorial Park, Ltd., expects to earn gross
23 revenues of over \$500 million from sales and
24 operations in the Conservation Zoned Area, or you
25 can't tell one way or the other?

1 Answer by the witness. I believe that was
2 Mr. Morford. "I think that's -- that is rather high,
3 but I think that its potential between, for a total
4 of 28 acres spread out over time, I think there's a
5 possibility that you could move upwards into that
6 much money, yes."

7 So I'm basing my question on testimony that
8 Hawaiian Memorial Park previously gave under oath.

9 So is there something in the documents that
10 have been submitted as part of the record which
11 indicates how much of this potential half a billion
12 dollars is going to remain in the community?

13 THE WITNESS: Honestly, I do not know.
14 And, again, if you have any questions regarding that
15 line of inquiry, I think Mr. Morford is better
16 situated to answer those questions.

17 COMMISSIONER OKUDA: But whether or not
18 money remains in the community or is taken out of the
19 community, that does go to the issue of
20 self-sufficiency, correct?

21 THE WITNESS: The question of
22 self-sufficiency is quite broad and includes a number
23 of factors other than economic considerations.

24 COMMISSIONER OKUDA: But it also includes
25 consideration of whether we are trading some of our

1 natural resources for money, whether that money is
2 going to remain in the community; correct?

3 THE WITNESS: I cannot answer that
4 question.

5 COMMISSIONER OKUDA: Thank you, Mr. Chair.
6 I have no further questions.

7 CHAIRPERSON SCHEUER: Thank you very much,
8 Commissioner Okuda.

9 Are there further questions for Mr. Ezer
10 from any of the Commissioners? Seeing none.

11 Mr. Tabata, do you wish to redirect?

12 MR. TABATA: No redirect. Thank you,
13 Chair.

14 CHAIRPERSON SCHEUER: Okay. Mr. Ezer, I
15 think you're excused.

16 THE WITNESS: Thank you, Chair.

17 CHAIRPERSON SCHEUER: And we will go onto
18 your next -- well, talk to me a little bit, Mr.
19 Tabata, about your next witness and what you think we
20 might cover sometime between now and 12:15, 12:30.

21 MR. TABATA: Our next witness is Tom
22 Holliday. He is our market and econ expert. I would
23 hope that he will finish by 12:30, but giving no
24 promises. His direct examine should last no more
25 than 15 minutes.

1 CHAIRPERSON SCHEUER: Should I instead
2 direct that question of length to Commissioner Okuda?

3 COMMISSIONER OKUDA: I'm not sure how many
4 questions I would have regarding him, Mr. Chair.

5 CHAIRPERSON SCHEUER: Let's proceed with
6 Mr. Holliday. Let me admit him into the room. I saw
7 him in the audience earlier.

8 MR. TABATA: Chair, if I may. Just for
9 administrative matters, some of our witnesses are at
10 a specific location, at one location, and they will
11 be on under that HMP-2 designation, and some of the
12 witnesses are remote and sit under their names.

13 Mr. Holliday is listed under his name, Tom
14 Holliday.

15 CHAIRPERSON SCHEUER: I have admitted him
16 and he is with us. Thank you.

17 Good morning, Mr. Holliday, nice to see you
18 again. I think you're muted. I'm unmuting you.

19 THE WITNESS: Can you hear me now?

20 CHAIRPERSON SCHEUER: We hear you. So I'll
21 swear you in and allow you to be questioned by the
22 Petitioner and then crossed by the others.

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

25 THE WITNESS: Absolutely.

1 CHAIRPERSON SCHEUER: Please proceed, Mr.
2 Tabata, with direct examination.

3 TOM HOLLIDAY

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

7 DIRECT EXAMINATION

8 BY MR. TABATA:

9 Q Could you please describe for us your
10 professional background?

11 A First could I do something? I've wanted to
12 do this really bad, (indicating).

13 It's a pleasure to see you all, and then
14 take off your mask. Because I've been watching 100s
15 of different press conferences and people walking up
16 and doing that, and so thank you for letting me live
17 my fantasy.

18 My name is Thomas Holliday. I am a
19 director for CBRE Honolulu Valuation Advisory
20 Services. I have been a real estate economist and
21 appraiser in the State of Hawaii for over 40 years
22 beginning with becoming a charter member of the
23 Hallstrom Appraisal Group in 1980.

24 I am designated as a Counselor of Real
25 Estate by the National Board of Realtors, which is a

1 peer-reviewed designation, not easily achieved. One
2 of only a dozen in Hawaii.

3 I am also a Fellow in the Royal Institution
4 of Chartered Surveyors, the oldest and most
5 prodigious real estate society on the planet. And
6 it's very hard to be, I'm one of only a dozen in the
7 country that have both those designations.

8 Now, I've been working on virtually every
9 major project in Hawaii for decades. I am considered
10 a top hotel appraiser in the state by financial
11 institutions here, and I have testified before this
12 august Commission many times.

13 MR. TABATA: Thank you, Tom.

14 Chair, Petitioner requests that Mr.
15 Holliday be qualified as an expert in the field of
16 real estate market assessment and economic impacts.

17 CHAIRPERSON SCHEUER: Are there any
18 objections from the Parties?

19 MS. APUNA: No objections from the State.

20 MR. PANG: No objections from the City.

21 MR. YOSHIMORI: No objection from
22 Intervenors.

23 CHAIRPERSON SCHEUER: Commissioners?
24 Seeing none, Mr. Holliday is so admitted.

25 THE WITNESS: Thank you.

1 Q (By Mr. Tabata): Excuse me, Tom, if I may,
2 I'm going to ask you to please summarize your written
3 testimony. And as a reminder, I'm asking you to
4 please not talk too quickly. Our court reporter has
5 to be able to take down your testimony for the
6 transcript.

7 Please proceed and summarize your
8 testimony.

9 A Thank you very much, that's the history of
10 me testifying before you as I speak too fast. I will
11 try not to so in this instance.

12 I will be speaking to my original study
13 which is Appendix B to Petitioner's Exhibit 6, the
14 Intervenor's Exhibit 15, and then our Exhibit 59
15 which is a couple of tables.

16 The Intervenors did find discrepancy in how
17 the correlations in the numbers worked. It's minor
18 and it doesn't impact our conclusions in any
19 meaningful way. They're still used (indecipherable)
20 demand for the property. But we wanted to correct it
21 to make sure that only what is working in the model
22 is presented before the board.

23 So I would like to start with saying
24 Memorial Park Cemeteries, graveyards, burial sites,
25 they're a land use, and just as residential,

1 commercial or resort. And they're a land use that
2 the community needs to provide. It's considered a
3 fundamental land use. It's a use found in virtually
4 every society in the history of mankind.

5 In fact, the only way we know about many
6 ancient societies is by coming across their burial
7 sites.

8 So we have thousands and thousands of
9 monuments, cemeteries, cathedrals, all dedicated to
10 how we consecrate those who pass on before us.

11 There is a broad spectrum of ways in
12 which --

13 CHAIRPERSON SCHEUER: Mr. Holliday, slow
14 down. I appreciate your enthusiasm, but slow down
15 for our court reporter.

16 THE WITNESS: Okay, thank you.

17 There are a broad spectrum of ways in which
18 the dead are consecrated in our society, and it's
19 based on religious, cultural, ethnic and other
20 traditions. Oahu is a highly complex community with
21 a milage of major religious, cultural and ethnic
22 groups.

23 And so burial practices in Hawaii have to
24 be provided for on a vast scale of opportunity, a
25 broad spectrum to be able to cater to and provide the

1 consecration opportunities as our community sees fit.

2 You can't fit them all into one narrow
3 demand. The demand is huge, and the right to
4 practice is guaranteed in the First Amendment.

5 So given that it's a land use, our job was
6 like every land use, to figure out is there a market
7 demand for it? And if there is a market demand, is
8 there supply, and is it an appropriate location?

9 So to cut to the chase, we basically have
10 three questions to answer within our market analysis.

11 One, how many people are going to die on
12 Oahu over the coming two decades?

13 Two, what's going to happen to their
14 bodies?

15 And, three, where are we going to put them?

16 So our study tried to answer those three
17 questions from a market perspective.

18 The next part of our study, economic impact
19 and fiscal benefits, are modeling we've done and
20 presented many times before the board.

21 So at this point in time I would like to
22 take the "share screen" option. Should I just go
23 ahead and click on that, Chair?

24 CHAIRPERSON SCHEUER: Sorry, we had not
25 prepared for this --

1 THE WITNESS: I see the link is alive to
2 share screen. Do I dare press on it?

3 CHAIRPERSON SCHEUER: Can you repeat what
4 it is you wish to share?

5 THE WITNESS: I have tables, a handful of
6 tables from our report that demonstrate what we did
7 and how we accomplished that. So I would like to run
8 through a few of them in order to support where we're
9 coming from, and to tell you where the numbers came
10 from.

11 CHAIRPERSON SCHEUER: And you're able to
12 refer to the specific portion of each exhibit when
13 you're doing so?

14 THE WITNESS: Oh, yes.

15 CHAIRPERSON SCHEUER: Go ahead.

16 THE WITNESS: Can I try to click on the
17 "share screen"?

18 CHAIRPERSON SCHEUER: Yes.

19 MR. TABATA: Tom, please state the exhibit
20 number of the document.

21 THE WITNESS: I'm trying to call up tables,
22 selected tables from Appendix B, Petitioner's
23 Exhibit 6. And so is that visible? I don't know.

24 CHAIRPERSON SCHEUER: What we are seeing is
25 Table 5, Scenario 2, maximum forecasts, Oahu deaths

1 2018.

2 THE WITNESS: So these are tables that
3 you'll see that come from Exhibit B to Petitioner
4 Exhibit 6, and they're numbered this way in the
5 addendum of that exhibit and all of them are
6 presented.

7 Again, the goal here is just to show you
8 the steps in our process, not to belabor it.

9 So the first table shows the Island of Oahu
10 historic death rate from 1997 through 2017, and
11 you'll see that the compounded growth rate changes
12 both for population, the resident deaths, and deaths
13 as a percent of populations.

14 And it's those compounded annual growth
15 rates that cause some problems in the model that
16 we've corrected.

17 But the idea is that currently there is
18 about 8,000 deaths or so a year, or at least when we
19 did the study in 2017, so these are based on State of
20 Hawaii data book, and discussions with the State of
21 Hawaii Health Department and DBEDT.

22 So having the historic number of deaths, we
23 can project the future. So Table 5, which is also
24 from our original study, is the maximum projection of
25 deaths, so we correct the population, the deaths, and

1 so we end up with resident forecast deaths.

2 And so usually using historic data and
3 state DBEDT population projections, we can project
4 the number of probable deaths up till 2040. And
5 remember that number on the bottom there, 245,130.
6 You'll see that again in the study. But on a maximum
7 basis, the actual number of deaths that we project
8 through the year 2040.

9 That is the first part of our question.
10 The second part of the question is what's going to
11 happen to the bodies. And they --

12 CHAIRPERSON SCHEUER: Mr. Holliday, you're
13 going to refer to the exhibit number again?

14 THE WITNESS: Table 6 from Exhibit B,
15 Petitioner's Exhibit 6. And this is from the State
16 of Hawaii Health Department, as reported in the data
17 book, how deaths are disposed of in Hawaii
18 historically.

19 And you'll see there's burials, cremations,
20 some are removed out of state, some are medical
21 donations, and then there's others. But the two
22 primary ways of disposition are burials and
23 cremation.

24 If you look at the numbers trending,
25 cremations have become a larger part over the years,

1 but if you look at most recent years of data,
2 2013, -14 and -15 at the time we did our study, it's
3 relatively stable, 21/22 percent are buried, and 72
4 to 73 percent are cremation.

5 Q (By Mr. Tabata): Excuse me, Tom. Maybe if
6 you could use your cursor as a pointer, that may
7 help.

8 A Okay, sure.

9 So if you look here, 2013, -14 and -15,
10 those are the most recent data years we had available
11 for study. You can see there was a time of
12 stabilization here in the percentage of dispositions
13 that were burials, and it's kind of flattening out
14 recently in cremations, but together these two
15 columns comprise about 92 to 94 percent of
16 dispositions. So we are focusing on those.

17 Burials we know means putting them in the
18 ground. Cremations, there is a variety about
19 cremations, so we are going to look at what happens
20 to the disposition of the bodies.

21 This is Table 9, also from Appendix B,
22 Petitioner's Exhibit C. This is the division of how
23 cremations are. And you'll notice total deaths, down
24 here the number, 245,000 is projected. That was from
25 an earlier table. And then cremations are going to

1 be about 186,000.

2 So of the cremations, some ashes are
3 scattered, some are disposed of other ways, like
4 putting an urn on the mantle. Then others are
5 interred with the majority being interred cremations.

6 Ashes are scattered. There is no
7 definitive compilation by the State of Hawaii, by the
8 Undertakers Association or whatever on what
9 percentage of cremations in Hawaii have their ashes
10 scattered. Nationwide it's up to 30, 35 percent.

11 But comparing that to Hawaii, you must
12 understand that on the mainland cremation has grown
13 as a proportion of dispositions, not because of
14 religious or cultural reasons, matter of fact, it's
15 in spite of that, but because it's the least
16 expensive way to dispose of a body.

17 And so scattering of ashes and cremation
18 has been adopted by an increasing number of people on
19 the mainland for financial reasons. However, that's
20 not true in Hawaii.

21 In Hawaii, cremation is not something new.
22 It's something ancient, and it's part of many of our
23 cultures that we have over here, particularly those
24 of the Buddhist and Shinto variety, and they don't
25 scatter the ashes, they inter them for future

1 veneration.

2 So we have assumed from 12 to 18 percent of
3 cremations in Hawaii will have their ashes scattered,
4 but that the majority will still be interred.

5 So we come up from the 245,000 number,
6 which is the total projected deaths on Oahu, that
7 approximately 158,000 seen here will be interred.

8 Q Tom, can you enlarge the document, please?

9 A It's my full screen now. I do not know how
10 to do that, apologize, but it's on my full screen
11 mode. If somebody has a suggestion, I'm open.

12 Q If it's a pdf reader, usually there is a
13 plus or minus control.

14 A I'll try, but once you expand it into
15 the --

16 Q That's better.

17 A I'll do it, but I think once I expand it
18 into the full screen, it's back to where it was. I
19 apologize.

20 But anyway, the next one, Table 10, this is
21 actually revised. It's from Exhibit 59. And, again,
22 what happened, I had to make the model, code the
23 model myself. Extensive market studies for
24 cemeteries are not common in America. Throughout
25 CBRE's international system we didn't have models,

1 nor was I able to find them in any industry site, or
2 any mortuary or undertaker sites, so I had to write
3 the program myself.

4 And what happens is the variables started
5 growing at different speeds, and by the time they got
6 out to 2040 they had lost some cohesion. The
7 Intervenor pointed that out. So this is a corrected
8 table.

9 And this is -- so total burials. So we
10 have total deaths, you've seen that 245,000 number
11 before. We have the less cremations, total
12 cremations, and then there is a number of burials.
13 So this is corrected to show the cremation aspect and
14 then take out the burials.

15 So we come to Table 12. Table 12, this is
16 also a replacement table contained in Exhibit 59. So
17 it's corrected to be correlatable across all the
18 numbers.

19 So the pertinent numbers here are the
20 number of interred cremations, plus the projected
21 number of burials. And you'll see on a minimum basis
22 that's projected 173,000 to 2040, and on a maximum
23 basis it's 207,000 to 2040.

24 From that total you have to deduct burial
25 plots purchased but unused. We estimate there's

1 about 50,000 of those. People are going to be buried
2 in Veterans cemeteries, Oahu residents that are going
3 to be interred on other islands, and that's becoming
4 common as it becomes cheaper, particularly there are
5 several cemeteries in Hilo that Oahu residents get
6 put over to.

7 And from those we can deduce how many net
8 demand for additional burial spaces are on Oahu. And
9 on a minimum basis that's 103,000, on a maximum
10 basis, 138,000, and the mid point is 140,000. So the
11 demand is pretty easy to quantify.

12 The next question is, given that there is
13 this huge demand, what is the supply available?

14 So Table 14 is another table, and the last
15 that we revised based upon some of the input from the
16 Intervenor, and this is a new table. But the only
17 difference is from what's presented in the report on
18 Table 14 in Appendix B, Petitioner's Exhibit 6, is
19 the highlighting and the footnote.

20 There are only 16,500 burial spots,
21 interment spots on Oahu at present, outside Hawaiian
22 Memorial Park. As we see the mid-point demands for
23 120,000. So we are short by some 104,000 burial
24 spaces on Oahu over the coming 20 years.

25 Now, there are some proposed, they're

1 highlighted in yellow. But those do not exist. And
2 I want to stress that point, and they may never
3 exist. And these numbers show that they built out to
4 a maximum, which never happens. And that if they're
5 built by 2040, which we don't believe at all is going
6 to happen.

7 So on the best case scenario from competing
8 supply there would be 89,000 additional spaces, but
9 frankly the assumption that they are going to happen
10 by 2040 is beyond a risky assumption, it's almost
11 unsupportable, because all of those projects, in
12 order to achieve those proposed levels, have to go
13 through entitlement process.

14 Some of them have soils concerns,
15 topography concerns, wetlands concerns. It will take
16 millions of dollars of infrastructure to be achieved.
17 So there is no reason to say that this proposed
18 supply is somehow absolutely going to be competitive
19 in the marketplace with the proposed Hawaiian
20 Memorial Park expansion, which is the only major
21 project that is moving forward on a quick basis.

22 As an example, on the bottom is the Hawaii
23 Kai Cemetery. It was approved in 2001, and it's
24 never been built. And despite the growth, economic
25 boom of 2006, -7, it wasn't built; despite the

1 economic boom of the last four or five years, it
2 hasn't been built. And to this day, the only thing
3 the site has been used for was to dump construction
4 fill in under a single permit that the Department of
5 Planning granted in 2015. And so that project is on
6 hold and probably may never exist.

7 So the point to make is that even if
8 somehow under the worst case scenario all of these
9 were provided on the market would still only be
10 105,000, which is not enough to meet mid-point
11 demand, and certainly not enough to meet maximum.

12 Now, given this, the typical two ways a
13 market study moves from these data, supply/demand
14 status to conclusion are based upon gross comparison,
15 one, and so the demand is for 120,000 mid point
16 additional burial spaces, and there's only 68,500 on
17 the market that are at HMP. So obviously on a gross
18 basis, there is an enormous quantify demand.

19 The next basis, which I'll show, this is
20 Table 16 from Appendix B to Petitioner's Exhibit 6,
21 this is the typical way you look at demand. And we
22 haven't revised this table. It should be nominally
23 revised, but the outcome is still inevitable. Is
24 that Hawaiian Memorial Park has proven it's
25 competitive in the marketplace. Hawaiian Memorial

1 Park has garnered a 30 to 40 percent share of the
2 market of burials in Oahu for decades. It's in a
3 great location. It's beautiful. It's relatively
4 close to town. It's easily accessible. It's a
5 wonderful facility. There is no reason not to
6 believe it can't capture 30 or 40 percent of the
7 market.

8 And so with 120,000 more burials needed,
9 spaces needed as a mid point, there is no reason to
10 expect that Hawaiian Memorial Park can't get the
11 market share of 30 to 40 percent, or some 35 to
12 50,000 of that demand.

13 We also look at it as appraisers, we are
14 the only ones who look at it on a residual basis,
15 because in valuation business investors and living
16 institutions are always asking what is the absolute
17 worst case.

18 So we also have -- unfortunately I don't
19 have the table here -- but we also do residual
20 analysis, where we plot the worst case imaginable,
21 and the worst case imaginable is that, as you see
22 here, all of these proposed burial spaces are
23 available which is nearly an impossible assumption,
24 that they will all be built over the next 20 years.

25 Again, that's an incredible assumption to

1 make, and that they will all receive total
2 100 percent market share before Hawaiian Memorial
3 Park gets any shares. And even under those totally
4 worst-case assumptions, the demand for space is,
5 remember, is 103,000 to 145,000, so even if you
6 assume all of these are built, and all are built in a
7 timely manner, which is not going to happen, so worst
8 case scenario, you can say, oh, the minimum amount of
9 demand may be met, may be met, but it certainly won't
10 be mid point or maximum demand levels. We're still
11 going to be short even under the very worst scenarios
12 where all of the competition gets built, gets put on
13 the market, and gets a full market share before
14 Hawaiian.

15 CHAIRPERSON: Mr. Holliday, can I ask you
16 where you're going?

17 THE WITNESS: I'm done with the market
18 section now. And so we demonstrated there's market
19 demand for it.

20 The next piece is -- this is Table 17 from
21 Appendix B to Petitioner's Exhibit 6, and this is a
22 summary of the economic and public fiscal impacts.

23 CHAIRPERSON SCHEUER: Sorry, Mr. Holliday,
24 I'm rechecking on time, which is one of my jobs to
25 manage. About how long more do you think you have?

1 THE WITNESS: Two minutes.

2 CHAIRPERSON SCHEUER: Okay. So we will go
3 through, and then probably take a break for lunch.

4 THE WITNESS: So this just summarize -- the
5 economic impacts, you'll have over \$29 million in
6 economic investments into Oahu. Local contractors
7 will generate and locals and buyers will generate
8 profits 4 to \$5 million.

9 During the construction period there will
10 be 931 worker years of jobs, of which 70 or so will
11 be in the construction industries, and the other ones
12 are the ongoing operations of the park.

13 The employee wages during construction will
14 total 62.8 million, and on an ongoing stabilized
15 basis there will be 60 worker years per year, 60
16 full-time equivalent positions at the Park, with
17 salaries of about \$4 million.

18 So the total base economic impact on a
19 direct basis is \$141 million, and \$5.8 million on a
20 stabilized annual basis. And if you use State
21 input/output multipliers, which measure
22 direct/indirect and induced, they dwarf the direct
23 numbers that are in the model.

24 And then on the bottom of it is talking
25 about tax receipt versus cost. Frankly, City and

1 County of Honolulu may receive no tax dollars. We
2 have 500,000 put in there because there is a chance
3 that the City and County may put in a park fee or
4 transportation fee or some other fee. But in
5 reality, they don't get property taxes from the
6 Memorial Park.

7 State of Hawaii will generate \$8.7 million
8 in tax receipts during the build out, and \$400,000 a
9 year.

10 And since there is virtually no public cost
11 associated with this privately financed operated
12 secured development, it's virtually all profit. So
13 the State will make a meaningful profit during
14 construction, and a return of some \$400,000 positive
15 in taxes.

16 And than concludes my direct testimony.

17 CHAIRPERSON SCHEUER: Thank you, Mr.
18 Holliday.

19 Mr. Tabata, do you want to do any further
20 questions right now? Otherwise I'm going to suggest
21 that it's 12:15 and we break until 1:00 o'clock.

22 MR. TABATA: I think now is a good time for
23 a break.

24 CHAIRPERSON SCHEUER: Mr. Holliday, can you
25 stop sharing your screen?

1 MR. TABATA: Tom, we are going to continue
2 later with your cross-examination, so you need to
3 return pursuant to the instructions.

4 THE WITNESS: Okay.

5 CHAIRPERSON SCHEUER: Commissioners, it is
6 12:16. I'm going to suggest that we take 45 minutes
7 and return at 1:00 o'clock for the continuing
8 questioning of Mr. Holliday.

9 Any concerns, questions or objections to
10 that path?

11 VICE CHAIR ACZON: Mr. Chair, I'm buying
12 lunch today.

13 CHAIRPERSON SCHEUER: Thank you for that,
14 Commissioner Aczon.

15 Anything else, Commissioners? If not --
16 and I believe staff was very helpful in putting a
17 notice that we are in recess. We are going to be in
18 recess until 1:00 P.M. Thank you everybody for your
19 participation so far.

20 (Noon recess was taken.)

21 CHAIRPERSON SCHEUER: Welcome back
22 everyone. We are back on the record. It is
23 1:01 P.M. on Tuesday, June 9th, which calculated
24 another way is the 101st day of March 2020, at least
25 how it feels sometimes, and we are continuing with

1 our -- we're going to go onto cross-examination of
2 Petitioner's witness, Tom Holliday.

3 Commissioners, do you have questions for
4 the witness? Excuse me, I have to start with the
5 other Parties. City and County?

6 MR. PANG: City has no cross-examination
7 questions for this witness. Thank you.

8 CHAIRPERSON SCHEUER: Thank you. State?

9 MS. APUNA: No questions.

10 CHAIRPERSON SCHEUER: Commissioners?
11 Commissioner Okuda -- oh, sorry, Intervenor?

12 MR. YOSHIMORI: I do have questions. Thank
13 you.

14 CHAIRPERSON SCHEUER: Please proceed.

15 CROSS-EXAMINATION

16 BY MR. YOSHIMORI:

17 Q Mr. Holliday, Mr. Ezer had written a letter
18 of response to Mr. McCreedy's EISPN letter, and in it
19 Mr. Ezer stated that Hawaiian Memorial allows four
20 urns or two caskets per plot.

21 CHAIRPERSON SCHEUER: Are you referring to
22 an exhibit?

23 MR. YOSHIMORI: It is in the EIS. I think
24 it's Exhibit 6, Appendix A.

25 Q Did your study take into account the

1 practice of having multiple interments/inurnments in
2 a burial space?

3 A Our demand study quantified singular demand
4 spaces. We appreciate that the market can provide a
5 variety of things, but that is not what a lot of
6 people prefer, and so our analysis was based upon
7 total number of individual interment spaces
8 requirements.

9 Q I just want to make sure that I understood
10 that.

11 You only calculated one person per plot or
12 per burial?

13 A Yes, based upon total numbers of
14 dispositions and interments.

15 Q So on page 1 of Intervenor's Exhibit 15, we
16 listed four items of concern to us that we thought
17 were changes that could be done to the study.

18 They were, the first one, number one was
19 that the casket burial projections was overstated by
20 30,000 plots, approximately.

21 The second one was that ash burials
22 projections are overstated by 12,000 plots.

23 The third one was that the burial supply
24 omits Hawaiian Memorial's existing 4500 plots as of
25 April of 2018.

1 And the last one was that the calculations
2 all assume only one urn per casket.

3 So on Petitioner's Exhibit 59, Table 10,
4 the one you just submitted, you walked us through,
5 CBRE acknowledged that, number one, what we were
6 saying that the casket burials are overstated, you
7 acknowledged that and corrected that error.

8 So just looking at Petitioner's Exhibit on
9 Table 10, that last column in scenario one, total
10 number of burials, you have it as 33,000, but before
11 that it was 77,000.

12 And then on the next one, on the scenario
13 two, you now have it as 48,000, and it used to be
14 76,000. Is that correct?

15 A That's correct.

16 Q So Intervenor's Exhibit 1 -- sorry,
17 Exhibit 15, page 1, that change submitted -- it
18 changes our -- we stated that the overstatement in
19 the casket burials was 30,000.

20 With the changes you made it makes it that
21 the overstatement is greater, it's 41,000. Is that
22 correct?

23 A No, that's not.

24 Q I think it is correct, because if you take
25 the original burials which was 75,000, and you

1 subtract the changed amount on Table 10, which is now
2 33,000. I'm just talking scenario one.

3 So 75,000 minus the 33,000 that equals the
4 41,000, an overstatement. So it's greater than what
5 we had said. We said overstated by 30, you said 41?

6 A Yes. But the key number is on Table 12,
7 when you look at mid-point total periodic interments,
8 and the number went from 155 to 120,000 something, so
9 it is overstated by 30,000.

10 Q Exhibit 59 did not refute our item number
11 two, which ash burial projections are overstated by
12 12,000; is that correct?

13 A I do not agree with that statement
14 whatsoever, and I would like to hear your proof that
15 it is overstated relative to the mainland and
16 cultural traditions here in Hawaii burial practices.

17 Q If you turn to --

18 A That is unsupported. You are making an
19 assumption that cannot be supported and goes against
20 practices of cultural interment of cremations here in
21 Honolulu. And you're basing that on nationwide
22 projection that you decided to pull a number out of
23 the air, and I would be interested in how you support
24 that, and how that could be viewed as me being in
25 error.

1 Q If you turn to our exhibit --

2 CHAIRPERSON SCHEUER: Sorry, can you please
3 both make sure that you're not talking over each
4 other.

5 MR. YOSHIMORI: Yes, sir.

6 CHAIRPERSON SCHEUER: Thank you.

7 Q (By Mr. Yoshimori): If you look at
8 Intervenor's Exhibit No. 15 on page 6, that is where
9 we address the overstatement. So we show your table
10 from CBRE page 29, from the study page 29, and it
11 shows that -- I've highlighted it in purple -- we
12 estimate 18 percent of Hawaii cremations.

13 But in the introductory paragraph above the
14 CBRE study, it says, and I have it quoted there,
15 scenario one resulting in minimal burial demands
16 estimate that 25 percent of Oahu cremations result in
17 scattering of ashes, and four percent are otherwise
18 disposed.

19 Also above that it says, nationally 35
20 percent of people scatter ashes.

21 So I was saying that you stated it was
22 25 percent, but the calculations are actually done at
23 18 percent. That's where we got that figure, the
24 discrepancy of 12,000.

25 A I would say that the text that you are

1 quoting was in error.

2 The numbers are correct in the tables.

3 Q Okay. Moving on.

4 So Exhibit 59 did not refute our number
5 three that there was an omission of Hawaiian
6 Memorial's existing 4500 plots?

7 A Correct. And we never said anywhere that
8 they were understated. We account for all of those
9 within our absorption analysis. So the burial supply
10 is not understated within the context of subject
11 supply.

12 We acknowledge that they're unsold lots.
13 Everybody acknowledges within Hawaiian Memorial Park.
14 We have included those numbers along with the
15 proposed ones as requiring absorption by the market.

16 Q I'm referring to the Exhibit 59 on Table
17 14. I think that's where you calculated the
18 estimated supply.

19 A Correct, that excludes the subject.

20 Q Okay, it doesn't --

21 CHAIRPERSON SCHEUER: Mr. Holliday, Mr.
22 Holliday. Two things.

23 First of all, you will get a chance to
24 speak, but you've got to let the Intervenor finish
25 his questioning.

1 Second of all, I would just assure you and
2 remind you, Intervenor did not object to you being
3 named as an expert witness. Nobody is questioning
4 your integrity or your expertise in this matter.
5 They are asking specific questions about this
6 document.

7 So you don't need to be offended by any of
8 the questioning that's going on.

9 THE WITNESS: I'm not, and I apologize.
10 That wasn't the intent at all.

11 CHAIRPERSON SCHEUER: Thank you. Would you
12 please proceed, Mr. Yoshimori?

13 Q (By Mr. (Yoshimori): Thank you.

14 So Table 14 does not include the existing
15 capacity at Hawaiian Memorial, the unsold 4500 plots;
16 is that correct?

17 A Right.

18 Q So --

19 A It might be -- never mind. But if I could
20 answer that questions, 4500 plots may remain, but
21 they are all not sale. They're not all desirable.
22 Some on hillsides, they're a long way away. They're
23 considered undesirable.

24 So 100 percent absorption of the plots that
25 exist in Hawaiian Memorial Park will not be absorbed,

1 there will always be some that are less desirable.

2 Q Going back to Intervenor's Exhibit 15, page
3 1, at the bottom of it we have summarized that taken
4 into account those four items that we talked about --
5 and I think you stated that number two we should
6 strike -- so if you take out that strike, and for
7 number one, if we change it to 30,000 to the 41,000,
8 I think our numbers -- assuming all of the things
9 that we talked about, you did not refute number 2, 3
10 or 4 -- I'm sorry, number 3 and 4, our calculation
11 show a surplus of 59,000 plots by 2040 on Oahu under
12 scenario one; and under scenario two we show an
13 estimate of a surplus of 36,000 plots by 2040.

14 So given that, I think the Petitioner is
15 now saying in your Exhibit 59 that we should
16 eliminate the highlighted items, the currently
17 proposed capacity at Valley of the Temples, Mililani
18 and Hawaii Kai Cemetery, so I think that's what
19 you're saying in this Table 14; is that correct?

20 A Not at all. I am not saying to eliminate
21 them in the least, because they are potential
22 proposed, it's just when you talk about them in your
23 analysis, that they are somehow in existence, that
24 they somehow should be considered as supply, they
25 don't exist. They should not be considered as

1 existing supply as you are trying to make a point.
2 That is not true.

3 They are not existing supply, they are only
4 lines on a map, an artist's conception. Until they
5 are dealt with entitlements, the soil issues, the
6 topography issues, the infrastructure, capital
7 investments, they are not a reality. And you attempt
8 to show that they are a reality, and we highlighted
9 them to demonstrate they do not exist in reality.

10 The total supply on the market outside of
11 the subject is 16,500 burial sites, and that's the
12 truth. If you are making -- I do not agree with your
13 statement.

14 Q That number on Table 14 on the Petitioner's
15 Exhibit 59, that table computes -- it's from the CBRE
16 study -- it computes the available capacity or the
17 available plots on Oahu. And that -- it's on that
18 table, it lists those currently proposed that you
19 highlighted. Those are included in the total
20 estimated supply. So your study included them as
21 part of the supply. I didn't add them, it was in
22 your table.

23 A You're misreading the title. It says total
24 available and proposed. That's not total available.

25 Q Hold on just a minute.

1 If you turn to Petitioner's Exhibit 59,
2 Table 12, that table is a summary of all of the
3 previous computations in the CBRE study.

4 And I believe it shows -- this one doesn't
5 show it. It's in another. Just a minute.

6 It's on the Petitioner's Exhibit 6, I
7 believe it was the EIS appendix. In the CBRE study,
8 Appendix B, page 40, there is a table showing the
9 assumed supply of burial plots, crypts and
10 cremations, the total listed is 105,000, which
11 corresponds directly to your table -- again, it
12 was -- those currently proposed cemetery plots of
13 89,000 were included as part of your estimated supply
14 in the CBRE study. Is that correct?

15 A Part of the potential supply, that is
16 correct, but they do not exist in reality, and they
17 are not available.

18 Q No, those -- so they were included in your
19 study and supply, correct?

20 A We included them as you see here, yes. So
21 we never intended that they were going to be built.
22 As a matter of fact, it was modeled on a worst-case
23 scenario, but they do not exist.

24 The ones that exist are 16,500, and the
25 ones that are moving and exist at Hawaiian Memorial

1 Park which is subject --

2 Q If that was supposition of CBRE, would it
3 have been better to exclude those values from your
4 estimated total when you produced your report in July
5 2018?

6 A Yes, perhaps, and we discussed that,
7 frankly. But it would be lack of professionalism on
8 our part to not include things that are proposed. We
9 do market studies for proposed residential
10 developments. We talk about all the ones planned and
11 proposed, and interview members of Department of
12 Planning. And we look at a variety of aspects, and
13 it would be remiss of us not to mention these being
14 proposed.

15 But just because something is proposed in
16 Hawaii, that does not mean it will come to
17 actualization, nor does it mean it will be built out
18 according to long-term master plan allows.

19 So whenever you use those type numbers, you
20 have to acknowledge the risk in those numbers of
21 whether or not they will proceed. And as the reason
22 we changed this table to include the footnotes you
23 wanted emphasized that these don't exist, and there
24 is significant risk to assume that they will be built
25 at all or on a timely basis. So there could be an

1 argument to exclude them.

2 Q We've had -- several people have called
3 Mililani Mortuary, and we've heard that they have
4 20,000 plots currently available for sale.

5 Have you spoken with Mililani about whether
6 their 20,000 proposed plots are now available?

7 A I have not updated this to current date,
8 but as of the date of this study, that is what the
9 numbers were made to be of how many were in place
10 versus proposed. Whether or not -- I'm sorry, go
11 right ahead.

12 Q No, I'm sorry.

13 Have you contacted Valley of the Temples
14 about what their --

15 A Yeah, at the time when we did the study,
16 yes.

17 Q Have you contacted them recently about
18 whether or not any of that capacity is coming online?

19 A No, I have not. And I would say, though, I
20 have -- there is nothing in any publications, and
21 it's pretty hard to move anything these days without
22 being on the internet somewhere. The last notice in
23 the paper was about Valley of the Temples on their
24 most recent area of the cemetery that they've opened.

25 And in Hawaii Kai the last mention in the

1 media was 2015.

2 Q Thank you.

3 Hawaii Revised Statute 44-4.5 says, quote:

4 "Owners of residential or agricultural
5 property who use or intend to use their property for
6 the interment of family members shall be exempt from
7 the previous provisions of the chapters provided."

8 So was that taken into account, having
9 on-site burials in your study?

10 A No. That is such a small portion of the
11 marketplace that it would be almost impossible
12 to measure.

13 Q So the CBRE study, together with Exhibit 59
14 that was submitted, there still are some corrections
15 you're proposing to those numbers?

16 A No. They were made on the tables that were
17 provided.

18 MR. YOSHIMORI: Those are all the questions
19 I have. Thank you.

20 CHAIRPERSON SCHEUER: Thank you very much,
21 Mr. Yoshimori. I apologize. I didn't mean to try to
22 skip you earlier.

23 Commissioner Cabral.

24 VICE CHAIR CABRAL: Thank you.

25 Mr. Holliday, I have a question. And thank

1 you for the charts, but not having them in front of
2 me long enough to really analyze them, I wasn't sure
3 if it is covered in there.

4 You made a reference about the declining
5 number of actual burial plots needed on the mainland
6 due to increases in the number of cremations on the
7 mainland. And that was being based on the economic
8 cost of those two different activities.

9 My question is, in your analysis -- and
10 then you reference the fact that we do not seem to
11 have that in Hawaii because of the different -- the
12 strength of different ethnic groups and their
13 religious backgrounds here that have cremations
14 already as part of that.

15 My question is though, regardless of that,
16 based on just pure business and economics, is there
17 any accounting in your numbers for the possibility,
18 or I would consider in business money talks is a
19 probability that we will have a decrease in the need
20 for large plots because of increased cremations as
21 the cost of a full casket, burial service increases
22 over time, over clearly the coming 20 years.

23 In all of your numbers and analysis, did
24 you account for that potential increase in Hawaii of
25 cremations from all groups, particularly those not

1 necessarily based on religious preferences?

2 THE WITNESS: If I understand what you're
3 saying correctly so I can answer, are more cremations
4 in Hawaii likely to be ashes scattered versus
5 interred?

6 VICE CHAIR CABRAL: Not just that. In
7 terms of just cremations in general over the need for
8 an actual plot of land, that would be one part of it.

9 Then because of obviously interring an urn
10 with ashes would take a lot less real estate than a
11 full casket burial.

12 So I guess it's both of those
13 possibilities, one due to cost, not religious
14 reasons, but due too just economics, are you able
15 to -- or do you think there's any validity in needing
16 to account for the more people cremating versus
17 having full caskets, and/or more people scattered
18 cremation versus interment for economic reason?

19 THE WITNESS: We think cremations will
20 slightly grow, continue to slightly grow as a
21 percentage of all disposal methods of providing. So
22 we have accounted for that.

23 We have not accounted for any trending of
24 increasing reasons to dispose ashes because of cost
25 here in Hawaii.

1 But in the same respect, we would like to
2 add, you know, since you're asking about market
3 trends, one of the market trends we are seeing, and
4 at Valley of the Temples, is to actually put less
5 interments per acre than traditional.

6 Valley of the Temples newest phase, if you
7 will, has only density of 470 interments per acre,
8 while traditionally that number has been in the
9 thousands. And that's what they're talking about
10 moving forward at Hawaiian Memorial Park.

11 So, yes, there could be some for
12 capitalistic reasons to save money, some increase in
13 the ashes being scattered out of the cremations, but
14 at the same time the market may move towards lower
15 density instead of higher density interments.

16 VICE CHAIR CABRAL: So there's no way to
17 market and analyze what that could be from the data
18 and research?

19 THE WITNESS: All you can do is plot some
20 kind of growth figure in here and try to project.
21 But, again, in Hawaii's history, the tendency -- we
22 believe we probably overstated these scattering of
23 ashes. The tendency is interment and veneration of
24 cremation remains.

25 VICE CHAIR CABRAL: Okay. Thank you very

1 much.

2 CHAIRPERSON SCHEUER: Thank you,
3 Commissioner Cabral.

4 I'm going to call on Commissioner Chang
5 followed by Commissioner Okuda.

6 COMMISSIONER CHANG: Thank you, Chair.
7 Thank you, Mr. Holliday. Just two questions.

8 Does availability equate with a person's
9 choice? So if you have family members who are buried
10 at Hawaiian Memorial Park and they want to continue
11 to be buried at Hawaiian Memorial Park, does your
12 calculation of availability include a choice of where
13 people want to be buried?

14 THE WITNESS: Well, in a general way, yes.
15 Yes, because in a macro way we showed all demand,
16 which by definition is a broad spectrum. And I think
17 if you talk with -- the owners come up, you can talk
18 to them about the wide variety of packages that
19 Hawaiian Memorial Park offers as consecration
20 interment alternatives. So they exist in the market.

21 They would continue to exist in the market
22 unless supply was somehow restricted and it wasn't
23 available. But in general, we believe that, in
24 giving the people the right to inter and consecrate
25 those that passed on before with a level of religious

1 freedom, and so, you know, I don't foresee there
2 being major changes in that regard.

3 COMMISSIONER CHANG: I think my question is
4 more -- if, for example, there are vacancies and
5 availability at Mililani, but you want -- a person
6 wants to be buried at Hawaiian Memorial Park, your
7 tables only take into consideration the fact that
8 overall there may be availability. It doesn't take
9 into consideration a person's choice of where they
10 want to be buried?

11 THE WITNESS: Yes. Yes, we do.

12 If you look at -- I don't want to take over
13 the screen unless I'm told to, but on Table 16 from
14 our original exhibit, we do what is called a market
15 shares method, and that is the standard way to
16 determine absorption of product of any real estate
17 land use.

18 And so, again, historically Hawaiian
19 Memorial Park has captured 30 to 40 percent of the
20 Oahu interment market, and that's because of its
21 location, desirability, it's close to town, all the
22 different factors that go into it.

23 And one of the factors is, of course, that
24 my ancestors and my loved ones are interred at
25 Hawaiian Memorial Park, that's where I want to be

1 interred.

2 So on a going-forward basis that triggers
3 demand. And, yes, we considered that in the market
4 shares method describing a share of the market to
5 Hawaiian Memorial Park assuming they have product to
6 offer.

7 COMMISSIONER CHANG: I probably didn't
8 articulate my question very well. But that's okay.
9 I think you've answered it.

10 My final question is, it's related to --
11 your calculations were based upon one person per
12 burial plot.

13 Do you know whether the policies at
14 Hawaiian Memorial Park have changed in response to
15 more people -- people wanting to have multiple
16 burials because of economic conditions?

17 Do you know whether their policy has
18 changed?

19 THE WITNESS: No, I do not. I've been told
20 that they have their policies, and they will be the
21 same way going forward.

22 COMMISSIONER CHANG: Thank you very much.
23 No further questions.

24 CHAIRPERSON SCHEUER: Thank you,
25 Commissioner Chang.

1 Commissioner Okuda.

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

4 Mr. Holliday, did you actually look at a
5 document which set forth what the burial policy is at
6 Hawaiian Memorial Park, specifically, for example,
7 how many urns may be placed in a plot?

8 THE WITNESS: I have not seen an official
9 document. I've only had discussions with other
10 members of the development team and ownership.

11 COMMISSIONER OKUDA: Did anyone tell you
12 that burials -- let's stick with just urns, okay --
13 did anyone connected with Hawaiian Memorial Park, or
14 acting on their behalf with respect to this Petition,
15 ever tell you that a gravesite, a plot is limited to
16 only one urn?

17 THE WITNESS: I believe that that is the
18 case, one interment, but I believe that they may
19 allow more than one urn, but one burial is per plot
20 is the assumption.

21 COMMISSIONER OKUDA: I know we must stick
22 to what's in the record. And so maybe -- let me just
23 ask for definition.

24 When we talk about a burial plot, what do
25 you mean?

1 THE WITNESS: A burial space is where an
2 interment of -- excuse my language -- a body could
3 go, and that would be whether they are cremated or
4 whether they are buried in a casket.

5 COMMISSIONER OKUDA: So is it your
6 understanding that for each burial plot there is a
7 separate headstone? I'm just trying to make it easy
8 to figure out.

9 THE WITNESS: I don't know about
10 headstones. I don't claim to know about headstones,
11 but I just know that typically one burial in a plot.
12 Plots may be various in sizes depending upon whether
13 used for interment of urn or whether it's for
14 interment of a casket, but my assumption is one
15 burial plot for disposed body.

16 COMMISSIONER OKUDA: But that's just an
17 assumption, not based on you actually looking at
18 specific documents, correct?

19 THE WITNESS: That's based upon discussion
20 of the ownership of the development team.

21 COMMISSIONER OKUDA: Who in the ownership
22 or development team told you it's one urn per burial
23 plot?

24 THE WITNESS: I can't recall if it was one
25 urn, but I know it's one casket per burial plot.

1 Whether or not it's limited to one urn, I don't
2 recall.

3 COMMISSIONER OKUDA: Let's talk about urns.
4 What is your understanding about how many
5 urns may be put in a single burial plot?

6 THE WITNESS: It's either one or two, and I
7 apologize for not knowing. I believe it's one or two
8 at Hawaiian Memorial Park.

9 COMMISSIONER OKUDA: Did your study assume
10 that only one urn could be placed in a burial plot,
11 or that more than one urn could be put in a burial
12 plot?

13 THE WITNESS: As answered earlier, ours are
14 all single spaces assuming single interment.

15 COMMISSIONER OKUDA: So in other words, in
16 plain English, your study assumes the maximum amount
17 of urns in a burial plot is one urn, correct?

18 THE WITNESS: Correct.

19 COMMISSIONER OKUDA: And if, in fact, the
20 policy of Hawaiian Memorial Park is to allow two urns
21 in a burial plot, that would affect the conclusion
22 reached in your study; correct?

23 THE WITNESS: I do not believe it would
24 affect the conclusion. It would merely affect some
25 of the modeling process, but the conclusion there are

1 still unmet demand remains.

2 COMMISSIONER OKUDA: You've been -- let me
3 ask this first on the topic of urns.

4 In your preparation of your report, did you
5 come across any documents or evidence which indicated
6 that there is a physical limitation on the amount of
7 urns that may be placed in a burial plot?

8 THE WITNESS: Could you please define
9 "physical limitation"?

10 COMMISSIONER OKUDA: Well, for example, at
11 a certain point there's not enough space to put the
12 urns, or there's a solid basalt or bedrock that
13 you're going to have to dynamite if you want to put
14 the urns.

15 Did you come across any documentation or
16 evidence which indicated to you in the course of you
17 preparing your study, that there was some type of
18 physical condition which would limit the amount of
19 urns which may be placed in a burial plot?

20 THE WITNESS: No.

21 COMMISSIONER OKUDA: In fact, based on your
22 studies and your expertise and knowledge, is it true
23 or not true that certain cultures in fact place urns
24 of multiple generation in a single burial plot?

25 THE WITNESS: Yes, and they do that on Oahu

1 as well.

2 COMMISSIONER OKUDA: Are you able to give
3 us an opinion, based on the investigation and study
4 that you did to prepare your report, of what would be
5 the possible maximum number of urns that could be
6 placed in a burial plot at Hawaiian Memorial Park?

7 THE WITNESS: No.

8 COMMISSIONER OKUDA: Is that something that
9 should be considered in determining whether or not
10 capacity is in fact being reached or not being
11 reached?

12 THE WITNESS: It would be a factor in
13 capacity, yes. But, again, it is my belief, having
14 been the one who built the model and put in all the
15 variables, that even if we were to parse the number
16 of whether we want two urns in there or three and
17 only family, I still believe that there would be huge
18 unmet demand for burials on Oahu.

19 COMMISSIONER OKUDA: Again, your study
20 assumed one urn per lot?

21 THE WITNESS: Correct.

22 COMMISSIONER OKUDA: You have been
23 qualified and allowed to testify as expert witness in
24 numerous cases, not only Land Use Commission, but
25 civil cases, in civil courts and possibly in federal

1 court; is that correct?

2 THE WITNESS: I do not testify in court,
3 but otherwise, yes, sir, I've been qualified as
4 expert witness for countless government bodies,
5 arbitration, mediation. I generally don't testify in
6 court.

7 COMMISSIONER OKUDA: So you understand that
8 the next question I probably will ask about is the
9 compensation. It's not intended to insult you in any
10 way or anything like that, but it's something that is
11 normally asked just so that the decision-makers can
12 take that issue into account in judging credibility.

13 You understand that, correct, no insult
14 intended?

15 THE WITNESS: Sure.

16 COMMISSIONER OKUDA: Can you tell us what
17 is your compensation that is being paid and to be
18 paid with respect to the work that you are providing
19 in this matter for Hawaiian Memorial Park?

20 THE WITNESS: I'm happy to as long as there
21 is no objection from Mr. Tabata. I'm assuming there
22 is not.

23 We had a contract to complete our study and
24 I believe it was for \$19,000, 20,000. I also get
25 compensated for any work in preparation for these

1 public hearings and for the time spent in the
2 hearings.

3 COMMISSIONER OKUDA: And your work or
4 compensation for preparation in the public hearings,
5 is that paid on an hourly basis?

6 THE WITNESS: On an hourly basis, yes.

7 COMMISSIONER OKUDA: If I may ask, what is
8 that hourly rate?

9 THE WITNESS: Generally 325 to \$350 per
10 hour.

11 COMMISSIONER OKUDA: Is any of your
12 compensation contingent on the outcome of proceedings
13 before the Land Use Commission?

14 THE WITNESS: Absolutely not. I would be
15 thrown in jail for that. That would be a violation
16 of USPAP. We are not allowed at any time in
17 Valuation Advisory Service to take money based upon
18 outcome.

19 COMMISSIONER OKUDA: I didn't intend to
20 imply that your would --

21 THE WITNESS: No, I'm just saying, I don't
22 have the option of doing that even if I wanted to.
23 That would violate every principle of everything I've
24 ever held, and would get me fired.

25 CHAIRPERSON SCHEUER: Briefly, Mr.

1 Holliday, can you spell out USPAP for the record?

2 THE WITNESS: Principle and Practices in
3 United States, United States Principle and Practices.
4 And that is required of any appraisal anywhere it's
5 performed in the world.

6 CHAIRPERSON SCHEUER: Sorry to interrupt
7 the question, Commissioner.

8 COMMISSIONER OKUDA: Thank you, Mr. Chair.
9 That was a good point that we should try to spell out
10 acronyms and titles for purposes of helping the court
11 reporter keep a clear transcript.

12 My final question deals with some of the
13 economic data that you testified about.

14 Do you have an estimate, based on your
15 study and investigation of this matter, on what the
16 gross revenue will probably be during the life of the
17 expansion of Hawaiian Memorial Park?

18 In other words, what would be the gross
19 revenue attributable to the expansion of the park?

20 THE WITNESS: That's a good question. We
21 do, on Table 22 of our original study, we talk
22 about -- and that is Appendix B to Petitioner's
23 Exhibit 6.

24 We do talk about and project Memorial Park
25 gross revenues on a going-forward basis, both during

1 the development and sales period, and then moving on.

2 And, you know, our projection on the total
3 Memorial Park gross revenues during the construction
4 absorption period, which extends into 2035, would be
5 \$115 million.

6 COMMISSIONER OKUDA: So absorption also
7 includes gross revenue from the sale of cemetery
8 plots, is that correct?

9 THE WITNESS: That is the inclusive
10 revenues that are generated by Hawaiian Memorial Park
11 based upon historic data, and that would include the
12 plots, the payments into the trust, the burial
13 services and mortuary services, a variety of other
14 services that Hawaiian Memorial Park offers.

15 COMMISSIONER OKUDA: Earlier in this
16 hearing I read from a portion of an earlier hearing
17 that we had where there was testimony given about
18 possible future revenues.

19 There seems to be a discrepancy between the
20 numbers. Would you have any explanation of where
21 there might be this discrepancy?

22 THE WITNESS: Given that you can identify
23 the numbers for me that you think are in discrepancy.

24 COMMISSIONER OKUDA: Let me read from the
25 transcript.

1 This was the transcript of the hearing
2 regarding the Environmental Impact Statement at page
3 120, lines 13 to 22. The question I asked was:

4 "So, I mean, is it reasonable to say that
5 Hawaiian Memorial Park, Ltd., expects to earn gross
6 revenues of over \$500 million from sales and
7 operations in the conservation zoned area, or you
8 can't tell us one way or the other?"

9 The answer from the witness was.

10 "I think that's -- that is rather high, but
11 I think that is potential between -- for a total
12 28 acres spread out over time, I think there is a
13 possibility that you could move upwards into that
14 much money, yes."

15 THE WITNESS: Okay, and the question?

16 COMMISSIONER OKUDA: The question is:
17 Would you have any explanation why there's a
18 difference in your projected gross income and that
19 prior testimony that I just read?

20 THE WITNESS: Yes. Several reasons. One
21 is I am a little confused. I don't think the answer
22 that was provided is somehow definitive. It was a
23 statement you made and he responded with his "no".

24 But our gross revenues are operating
25 revenues. In addition to the operating revenues,

1 there's going to be sales revenues of plots.

2 COMMISSIONER OKUDA: What percentage of the
3 gross revenues would remain in Hawaii?

4 THE WITNESS: Well, the gross revenues of
5 the operation will remain in Hawaii because those are
6 paid out in wages and services rendered here in the
7 islands. And I guess that some of it would flow off.
8 The caskets are probably made in Oklahoma or
9 something. I have no idea where caskets are made.

10 But in general, the Memorial Park operating
11 revenues, which is what we were projecting, will
12 remain here on the island.

13 As far as the capital investments and how
14 that return is, that wasn't the subject of our study.

15 COMMISSIONER OKUDA: Well, okay. Maybe I'm
16 getting little bit confused. Let me ask you this.

17 Did your study include the projected or
18 anticipated amount of revenue from the sale of
19 cemetery plots?

20 THE WITNESS: No.

21 COMMISSIONER OKUDA: So you wouldn't be
22 able to tell us what percentage of revenue from the
23 sale of cemetery plots would, in fact, remain in
24 Hawaii; correct?

25 THE WITNESS: Correct. I could just tell

1 you the first 30 million, plus interest, plus soft
2 costs and everything will definitely be spent in the
3 ground in Oahu.

4 COMMISSIONER OKUDA: Thank you very much
5 for answering the questions. Thank you for your
6 testimony.

7 Mr. Chair, I have nothing further.

8 CHAIRPERSON SCHEUER: Thank you very much,
9 Commissioner Okuda.

10 Commissioners, are there further questions
11 for Mr. Holliday?

12 If not, I have a couple of questions --
13 Commissioner Giovanni, I'm going to unmute you.

14 COMMISSIONER GIOVANNI: Thank you, Chair.

15 Mr. Holliday, thank you for your testimony
16 today.

17 One clarifying question. How did you
18 account for, or did you account in your analysis for
19 the plots that have been pre sold and are not used?

20 THE WITNESS: Correct, we did.

21 If you look at Table No. 12, I believe it
22 is -- I'm running this back through here -- yes,
23 Table No. 12 we account for 50,000 such spaces on
24 Oahu that have been purchased and are unused.

25 And we also have space that we have

1 accounted for in the Veterans.

2 COMMISSIONER GIOVANNI: Despite that your
3 general conclusion is that supply is inadequate to
4 meet demand over the next 30 years, 20 years are so?

5 THE WITNESS: Yes. Grossly inadequate.

6 COMMISSIONER GIOVANNI: I presume, as an
7 economist and someone who does a lot of economic
8 analysis, you're very familiar with Adam Smith's Laws
9 of Supply and Demand '76 and the Wealth of Nations;
10 correct?

11 THE WITNESS: Absolutely.

12 COMMISSIONER GIOVANNI: Did your analysis
13 factor -- I'm following up on Commissioner Cabral's
14 inquiry about 30 minutes ago -- did your analysis
15 account for the impact of increasing price due to the
16 efficiency of supply indirectly affecting the demand
17 itself?

18 THE WITNESS: To some extent, yes. That is
19 reflected in historic trends as that trend has
20 emerged, it is evident in the projections going
21 forward.

22 COMMISSIONER GIOVANNI: Wouldn't that only
23 be valid if supply was totally inadequate
24 historically?

25 THE WITNESS: No. I think that you're

1 seeing, particularly on the mainland, people are
2 choosing cremation and scattering of ashes even
3 though there's plenty of inventory available for
4 burials. It's a question of, again, personal,
5 traditional and religious desires.

6 COMMISSIONER GIOVANNI: Notwithstanding
7 cultural and religious preferences, would you agree
8 that if there was a substantial in market increase in
9 the price of these plots, that it would alter the
10 demand and result in increased demand for lower cost
11 alternatives, thereby -- let me finish -- thereby
12 relaxing or conditioning the excess demand?

13 THE WITNESS: Yes and no.

14 I don't think that you can divorce demand
15 from the motivation for demand. People want what
16 they want in regards to interment opportunity.

17 So anytime, in theory, that you increase
18 the price of something, you by definition decrease
19 the demand. So I would agree on that on a macro
20 basis.

21 COMMISSIONER GIOVANNI: But in your
22 analysis, you didn't do any scenario assessments for
23 substantial price increases and what affect that
24 might have on demand?

25 THE WITNESS: All of our analysis is done

1 in constant dollars. So the data is reflected
2 historic dollars moving to a constant dollar. So on
3 a going-forward basis we did not inflate anything.

4 COMMISSIONER GIOVANNI: That wasn't my
5 question.

6 My question was did you do a scenario
7 analysis, for example, that said if the price of
8 burying a casket doubled, what impact would that have
9 on demand for cremations?

10 THE WITNESS: No, we did not. That was not
11 our instruction. But just in hypothetical, that
12 would be incredibly problematic to do.

13 Again, all we have is historic trends of
14 how the increase in prices has increased the movement
15 toward cremation. That is all captured. And it is
16 trended out on a going-forward basis.

17 So apart from exhaustive surveys of people
18 who have families who have been actively in the
19 burial process, I'm not sure that that's possible.

20 COMMISSIONER GIOVANNI: That's all I have.
21 Thank you, Chair. Thank you, Tom.

22 THE WITNESS: Any time.

23 CHAIRPERSON SCHEUER: Thank you, very much,
24 Commissioner Giovanni.

25 Commissioners, are there further questions

1 for Mr. Holliday? If not, I have a couple questions,
2 Mr. Holliday, just related to this last line of
3 questioning.

4 How efficient is the secondary market on
5 cemetery plots?

6 THE WITNESS: Not exceptional. It's most
7 difficult to try to return it to the Memorial Park
8 for their eventual resell. You can go on Craig's
9 List and you can find offers for an independent
10 available spot, if you will, spot market burial
11 sites.

12 But, again, in our analysis, Table 12, we
13 account for the fact that there is a lot of sold and
14 unused burial plots out there. And whether or not
15 the person who bought it and owns it now is the
16 person buried there, or whether it's sold to somebody
17 else, it's still the same plot and it's still the
18 same supply, so we have accounted for all of those
19 that are out there and available and owned and
20 unused.

21 CHAIRPERSON SCHEUER: So just to -- I'm
22 going to repeat back to you what I heard you say to
23 make sure I understand it.

24 In your analysis of what's available, you
25 include those, even though the market is not

1 particularly efficient in necessarily using those.

2 THE WITNESS: Correct. If it is sold and
3 unused, we accounted for it.

4 CHAIRPERSON SCHEUER: Because my question,
5 and it wouldn't obviously be this Petitioner's job,
6 but my followup question was going to be, if the
7 problem is that there's this -- that part of the
8 constraint on supply is inefficient market, wouldn't
9 one solution to that being trying to increase the
10 efficiency of the market rather than trying to build
11 more supply?

12 THE WITNESS: No, I don't think so.

13 The supply exists. Those have been sold,
14 absorbed by the market, they're just unused.

15 And so certainly every market can be made
16 more efficient, but I don't think that ability to
17 move around existing purchase, absorbed burial sites
18 efficiency is really determinative. They are
19 accounted for in supply. They exist. They're out
20 there. We have accounted for them.

21 CHAIRPERSON SCHEUER: Thank you very much,
22 Mr. Holliday.

23 Anything further for Mr. Holliday from the
24 Commissioners?

25 Commissioner Cabral.

1 VICE CHAIR CABRAL: Thank you.

2 This line of questioning has got me
3 thinking of more things. Certainly I'm sure our
4 Chair was not suggesting that the market would be
5 more efficient if people would die faster, but I
6 guess that would be the case if you had more rapid
7 turn over of customers.

8 But speaking of, as a business, and I've
9 clearly never worried about this before, but I'm
10 going to assume that the grounds there are gorgeously
11 maintained and constantly maintained.

12 However, most of the customers in the
13 current cemetery area are no longer paying monthly
14 rent to have those grounds maintained and mowed.

15 So in your analysis of some sort, and I'm
16 not quite sure, but I'm assuming that somebody must
17 be thinking of this, you must be constantly getting
18 new income in order to maintain the grounds that were
19 previously sold, completely occupied, and nobody is
20 paying you for monthly maintenance fees.

21 CHAIRPERSON SCHEUER: Commissioner Cabral,
22 this might be an operational question for the owner
23 rather than economic question.

24 THE WITNESS: I'm happy to answer at least
25 preliminarily though.

1 That was a historic problem of cemeteries
2 is that the money would run out, and they would be
3 abandoned. And a great example is on King Street,
4 right across from Straub, next to One Archer Lane,
5 there was a cemetery that was in disrepair and they
6 didn't know what to do with it.

7 Nowadays they put the money into a trust
8 and the ownership can describe that. And so of the
9 money that you pay, a significant portion goes into a
10 trust to in perpetuity provide those services. That
11 wasn't always true in the past.

12 I think you'll find that Hawaiian Memorial
13 Park and the ownership has a significant trust to
14 provide for this.

15 VICE CHAIR CABRAL: Okay. Well, thank you.
16 That's very informative. Thank you.

17 CHAIRPERSON SCHEUER: Commissioner Chang.

18 COMMISSIONER CHANG: Thank you again.
19 Thank you, Chair.

20 Mr. Holliday, I just wanted to follow up on
21 one line of questioning, because you seem pretty
22 adamant that your conclusion would not change.

23 But your conclusions are based upon certain
24 assumptions. One assumption is that this is based
25 upon population growth on Oahu. And so if population

1 growth was not, as you predicted out there, is
2 greater growth on the other islands, the necessity
3 for burial plots may change.

4 Would you agree with that?

5 THE WITNESS: Certainly if the population
6 increases or decreases outside of the projections,
7 the outcomes would change.

8 COMMISSIONER CHANG: And the second one is,
9 your assumption is based upon one burial, one person
10 per burial plot?

11 THE WITNESS: Correct.

12 COMMISSIONER CHANG: And you projected that
13 there would be a demand over the next -- until the
14 year 2040, and if this is correct, about 105,000; is
15 that correct?

16 THE WITNESS: No, that would be the
17 absolute minimum. The maximum would be significantly
18 more, 130-some-odd thousand with the mid point of
19 120.

20 COMMISSIONER CHANG: Do you know whether
21 cemeteries have standard, you know, standard
22 practices, policies like Hawaiian Memorial Park, the
23 Valley of the Temples, Mililani, as to how many
24 persons or urns can be buried in a plot?

25 THE WITNESS: Each cemetery can provide

1 whatever they think the market will bear, or is
2 desiring of. And so they vary from cemetery to
3 cemetery.

4 COMMISSIONER CHANG: If there are -- if the
5 policy is to permit two per burial plot, two plots,
6 two -- I guess, two bodies per burial plot, one on
7 top of each other, or two or four urns, wouldn't your
8 conclusions substantially change? It could be cut in
9 half; it could be cut in a third?

10 THE WITNESS: No, not necessarily, because
11 just because you can do something, doesn't mean
12 that's what the market wants. And so you're still
13 going to have a significant portion of the market
14 which desires single interment. And you have to meet
15 that demands as well.

16 So the answer is yes, the number of
17 interments could be increased relative to, if you
18 will, increase the density. But just because
19 something is said, doesn't mean that's what the
20 market prefers.

21 COMMISSIONER CHANG: I guess it's not clear
22 to me. Where does -- what is the basis of your
23 conclusion that people want to have one burial per
24 person? One person buried in a plot, because like
25 the Veterans Memorial, they do both, the husband and

1 the wife. But that seems to be a greater -- that
2 seems to be what the market is actually demanding,
3 because of cost.

4 So what is the basis of your conclusion
5 that the market or the people's preference is one per
6 plot?

7 THE WITNESS: History. I mean if you just
8 look at the history of a cemetery development, an
9 interment development, certainly when you get into
10 interments of cremation remains, that can be done in
11 some kind of memorial.

12 But in general, the history has been one
13 body per plot. And it is true that it is not
14 uncommon for spouses to be buried next to each other
15 within adjacent plots or buried one on top of each
16 other. That does happen, yes.

17 COMMISSIONER CHANG: So if we asked
18 Hawaiian Memorial Park, Mr. Morford, what is the
19 trend that he has seen, if he is seeing at Hawaiian
20 Memorial Park a greater demand for more burials in a
21 single plot, would your conclusion change?

22 THE WITNESS: The answer is, the conclusion
23 being that there is far greater demand than supply,
24 that would not change the conclusion, because even if
25 you assume that every single burial we project is two

1 to a plot, which I think is an unrealistic
2 assumption. But even if you assume that, the
3 mid-point demand for two-person plots would still be
4 60,000 plots. And there is only 16,500 that exist in
5 supply.

6 So even if you cut by a half or even if you
7 cut by 60 percent the number of plots by assuming
8 there is multiple person plots, you're still -- the
9 existing supply is still well short of quantified
10 demands.

11 COMMISSIONER CHANG: But you would agree
12 that the total number, or the demand would change
13 depending upon if you find that the trend of
14 cemeteries and the preference for families is to have
15 multiple burials in a single plot, that some of your
16 assumptions may not be -- some of your historic
17 assumptions may not be the future trend, because the
18 future trend may represent economic conditions,
19 cultural preferences, just the desire to be more
20 environmentally effective, because you seem so very
21 adamant that, no, your conclusion would not change.

22 But if indeed the trend is different from
23 your assumption, it may change the ultimate demand.

24 THE WITNESS: Macro demand, not subject
25 demand.

1 COMMISSIONER CHANG: Okay. Thank you very
2 much. I just wanted to clarify that.

3 CHAIRPERSON SCHEUER: Thank you,
4 Commissioner Chang. Commissioner Wong.

5 COMMISSIONER WONG: Thank you, Chair.

6 First of all, I want to say, you know, just
7 following up on Commissioner Chang's statements, I
8 wouldn't want my wife on top of me.

9 Let's say we have another COVID crisis, or
10 something that we cannot stop this virus, and this
11 increased mortality rate, so would your assumption
12 still stand, still have a demand for 60,000 and not
13 maybe 75 or et cetera? So that -- go ahead and
14 answer and I'll do the second part.

15 THE WITNESS: First of all, our demand was
16 120,000. In reference to the 60,000, that was to
17 answer Commissioner Chang's question, what happens if
18 you cut it in half, and so if you cut it in half,
19 because everyone had two, the assumption was you're
20 only going to have 60, which since there's only
21 16,000 available, there is still a huge unmet demand
22 to support absorption.

23 But frankly, our study was done pre
24 COVID-19, and no one knows what the future is.
25 Hawaii has shown the ability to handle the outbreak

1 in fashion of -- only New Zealand's probably done it
2 better than we have.

3 So relatively speaking, and I don't mean to
4 make light or short of anything, but we've only had
5 like 11 COVID deaths here on Oahu. And as you can
6 see from the statistics, we've had like 8,000 deaths
7 in a year here on the island. So at least up until
8 now the number of deaths resulting from COVID has not
9 been a meaningful amount relative to the overall
10 number of people that pass away every year.

11 So I think it's a little premature to
12 suggest that there's going to be such a major
13 increase in deaths from COVID-19 that it will change
14 the burial.

15 COMMISSIONER WONG: So this is my second
16 part.

17 So as we've seen the economics, that a lot
18 of people was furloughed or been unemployed, so the
19 cost factor to pay for a funeral, a plot, people may
20 not be able to have the money to have a plot, so
21 they'll say I want to be cremated instead, or I want
22 to be thrown in the ocean in ashes.

23 Was that ever taken into account in your
24 study?

25 THE WITNESS: Well, from the standpoint of

1 historic trends, yes. From the standpoint of
2 historic trends and its impact upon the election of
3 how people are interred or cremated or scattered,
4 yes. From historic trends we projected and are
5 moving forward.

6 To answer your question, I appreciate our
7 unemployment rate is high in the state, and it may be
8 several years before coming back, but the assumption
9 is that we will return to a healthier economy
10 sometime in the next several years, maybe five years,
11 and that's the point of time we are really talking
12 about this project being available on the market.

13 COMMISSIONER WONG: Only other thing I
14 wanted to bring up is, you know, when we had our
15 first hearing in Koolau -- well, wherever the
16 ballroom, Windward side, there was couple witnesses
17 that came up and said -- I think Commissioner Chang
18 said, or other Commissioners said, they wanted to be
19 interred with their loved ones on top of each other,
20 or in the same, you know, burial or same box.

21 Did you take into account that issue too?

22 THE WITNESS: No, as we have assumed one
23 burial spot per interment.

24 COMMISSIONER WONG: Thank you, Mr.
25 Holliday. Thank you, Mr. Chair.

1 CHAIRPERSON SCHEUER: Thank you.

2 Commissioners, I'm hoping we can put this
3 witness to rest soon if you will.

4 Anything further? If not -- not in a
5 macabre sense.

6 THE WITNESS: May I say something?

7 I've been with you guys for a long time and
8 in a lot different ways. This is very interesting to
9 do it this way, and if it proves successful, I
10 personally think it's a great idea, lot easier then
11 getting everybody together and schleping them to Maui
12 for a couple of days, and seeing the conference rooms
13 full of luggage on day two.

14 This has my endorsement. I apologize for
15 some of my personal skills which are different over
16 the internet than they may be in person, but I want
17 to congratulate you on this effort.

18 CHAIRPERSON SCHEUER: Thank you for that
19 feedback. I have commented to more than one person
20 that the one thing that we will miss when we return
21 to in-person meetings is the ability to mute people.

22 Mr. Tabata, do you have any redirect?

23 MR. TABATA: We have no redirect, Chair,
24 but we did have a question.

25 We're trying to manage our witnesses, their

1 schedules. We're just wondering how long we were
2 going to go today, if that's known.

3 CHAIRPERSON SCHEUER: We're due for a
4 break. I need to confer with the staff, so I'm
5 thinking not much past 4:00 o'clock today. Dan?

6 EXECUTIVE OFFICER: Yes, Mr. Chair, that's
7 usually our ending time, 4:00 o'clock is usually what
8 we shoot for.

9 CHAIRPERSON SCHEUER: Obviously no one is
10 catching a plane, but that's what we're shooting for,
11 Mr. Tabata. How does that affect your plans for your
12 next witnesses?

13 MR. TABATA: Our next will be Tom Nance.
14 He has some time restrictions. And after Tom, Jami
15 Hirota. I think we will be notifying a lot of -- I'm
16 sorry, Jay Morford is our next witness, after him it
17 will be Nance.

18 Information affects is that I believe we
19 are going to be informing the rest of our witnesses
20 to be definitely available for tomorrow.

21 CHAIRPERSON SCHEUER: My assumption, based
22 on the tenor of today's questioning and the level of
23 details that the Commissioners are seeking, that if
24 we got through Mr. Morford and Mr. Nance today, we
25 would be fortunate.

1 MR. TABATA: Yes, understood.

2 CHAIRPERSON SCHEUER: So with that, it is
3 2:07 P.M., I apologize for going over an hour. I
4 would like to excuse Mr. Holliday, and if no
5 redirect, take a ten-minute break, reconvene at 2:17
6 for Mr. Morford.

7 Thank you all. We will reconvene at 2:17.

8 MR. TABATA: Excuse me, Chair. Given the
9 time constraints, I think we are going to, with your
10 permission, put on Tom Nance as our next witness.

11 CHAIRPERSON SCHEUER: Followed by Mr.
12 Morford?

13 MR. TABATA: Yes.

14 CHAIRPERSON SCHEUER: That's fine.
15 Reconvene now at 2:18.

16 (Recess taken.)

17 CHAIRPERSON SCHEUER: We are now moving --
18 Mr. Matsubara, you have brought in Mr. Nance as a
19 witness?

20 MR. MATSUBARA: Yes, I have.

21 CHAIRPERSON SCHEUER: Good afternoon, Tom.
22 I'm going to swear you in.

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

25 THE WITNESS: I do.

1 CHAIRPERSON SCHEUER: Please proceed, Mr.
2 Matsubara.

3 MR. MATSUBARA: Mr. Chair and members of
4 the Commission. For the record, my name is Ben
5 Matsubara, along with Curtis Tabata, we represent the
6 Petitioner Hawaiian Memorial Life Plan.

7 We have next Tom Nance. Thank you for
8 allowing us to call him out of turn.

9 TOM NANCE
10 Was called as a witness by and on behalf of the
11 Petitioner, was sworn to tell the truth, was examined
12 and testified as follows:

13 DIRECT EXAMINATION

14 BY MR. MATSUBARA:

15 Q Mr. Nance, Tom, would you state your name
16 and business address, please?

17 A My name is Tom Nance. Business address,
18 560 North Nimitz Highway, Suite 213, here in
19 Honolulu.

20 Q Tom, what's your area of expertise?

21 A Primarily in groundwater development and
22 dealing with groundwater issues. I have done work in
23 other things such as surface water, but groundwater
24 is at least 80 or more percent of the work that I do.

25 Q And you have been previously qualified as

1 an expert before the Land Use Commission in those
2 areas, have you not?

3 A Yes, I have.

4 Q What was the purpose you were retained for
5 this particular project?

6 A I was retained by HHF Planners for two
7 things in particular, first was to simply assess the
8 groundwater conditions beneath the project site, and
9 evaluate what impact the project might have on the
10 underlying groundwater. But there was to be a
11 particular focus on a dug well and a perennial seep
12 that is down gradient of the dug well, because these
13 have given rise to habitat in which the damselfly is
14 known to exist.

15 So maintenance of the perennial flow,
16 maintenance of the habitat became the focus of most
17 of what I do.

18 Q Tom, you were asked to prepare written
19 testimony for today's proceeding, which you have done
20 and we have marked as Exhibit 33.

21 Can I introduce that exhibit into evidence?
22 Could I ask you to summarize your testimony in that
23 Exhibit 33, please?

24 A Okay. To start the potential impact of the
25 project activities on the underlying groundwater, the

1 primary focus or aspect to be aware of is that the
2 project site, and in fact, all of the Hawaiian
3 Memorial Park exists in the caldera of the Koolau
4 Mountain, meaning that it overlies a volcanic
5 formation that is essentially impermeable. It's
6 called the Kailua series of the Koolau volcanics.

7 For example, if you drilled a well anywhere
8 on the project site, or anywhere in the balance of
9 the Hawaiian Memorial Park, you wouldn't be able to
10 develop a well of any significant yield because of
11 the impermeability of the underlying volcanics.

12 So activities that are proposed on the
13 project site, for example, will have no impact on
14 locations where groundwater is actually developable
15 as production wells of various types.

16 For example, inland and away from the
17 caldera there are a number of wells that are
18 successful tapping into more permeable Koolau
19 volcanics, and all of these high level groundwater,
20 most of them in dike compartments, and none of the
21 activities of the project site have any chance or any
22 physical possibility of impacting that use of
23 groundwater, or in fact, any other future use of
24 groundwater.

25 With regard to the preservation of the

1 damselfly habitat, there is in the northwest corner
2 of the project site a dug well and perennial seep
3 that was down-gradient of it. And we do have an
4 exhibit which will show where it's located within the
5 project site.

6 Can we share a screen, Chair?

7 CHAIRPERSON SCHEUER: Yes, go ahead.

8 THE WITNESS: This is up in the northwest
9 corner of the project site on the mauka portion. If
10 you can see my thing, that's the adjacent
11 subdivision. The well itself, dug well is right here
12 (indicating) and this seep that is perennial, which
13 marches downslope and ultimately discharges into the
14 drainage system that serves the subdivision.

15 The seep itself begins about four feet
16 downstream of the dug well, and as you walk downslope
17 with the seep, the water in it increases as you move
18 downslope.

19 So although leakage from this dug well does
20 provide the water for the upper quarter or a third of
21 the length of the seep, further downslope other
22 subsurface water comes into the seep area so that the
23 flow rate of the seep is actually sequentially
24 increasing all the way down until it discharges into
25 this drainage area here.

1 MR. MATSUBARA: Mr. Chairman, for the
2 record, the exhibit Mr. Nance is referring to is
3 Exhibit 1, which is also attached to his written
4 testimony that has been provided to you as
5 Exhibit 33.

6 CHAIRPERSON SCHEUER: Thank you.

7 THE WITNESS: The dug well itself, this is
8 a schematic of the well. It's a dug well. It's
9 about 11-and-a-half feet deep. There are no records
10 of its existence in the Water Commission records or
11 anything else that I could find.

12 It features this concrete base which is
13 about four feet, and then the open dug hole portion
14 which is actually larger than the size of the
15 concrete top.

16 The water level in the well, particularly
17 in the March, April period when I was doing the field
18 work for this, was always at a level that was
19 slightly higher than the down-gradient dirt.

20 And I actually went to see the well
21 yesterday afternoon just to look at what conditions
22 are, and the water level actually was quite a bit
23 lower than what I've shown here, and the upper
24 portion of the seep, although it was wet, there was
25 no actual discernible water, and you had to go at

1 least half way down the seep on your way to the
2 outlet before you saw any moving water.

3 So it's been a less than normal rainfall
4 period, and that's a seasonal variability. The seep
5 was wet for the upper half, and there was flow in the
6 lower half. But at the discharge into the drainage
7 thing, that flow rate was less than a gallon a
8 minute.

9 And when I had viewed this back in 2018 it
10 was typically more like two or three gallons a
11 minute.

12 MR. MATSUBARA: For the record, this is
13 Exhibit 2 attached to testimony Exhibit 33.

14 THE WITNESS: So to evaluate conditions,
15 what was creating the seep, and what the situation
16 was with the dug well, we did two field work
17 activities.

18 The first of them was to drill four small
19 bore holes. They're located right here, and they're
20 on the order of 12 to 20 feet higher in elevation
21 than the well itself little downslope.

22 These holes were drilled about 15 to
23 20 feet deep, and they were actually dry until the
24 lower elevations of the bore hole was reached. And
25 following that, the water level in the bore hole

1 slowly rose up to a level that was on the order of 7,
2 8 or 10 feet higher than the water level in the
3 downslope well.

4 But it established that the groundwater
5 occurrence we're talking about here is a subsurface
6 flow that is actually confined by the overlying silty
7 clay. So that's why when you drill through that
8 silty clay and created a bore hole, the water level
9 below that was able to move up under artesian
10 pressure into the bore holes.

11 And that's the same thing that is going on
12 on the dug well, it's actually -- the lower elevation
13 part of the dug well is providing water under
14 pressure that rises up in the well itself.

15 So let's say the medium through which the
16 groundwater is moving is a layer below the upper
17 crust, and it's confined by that upper crust.

18 The second thing we did is to try to verify
19 those kinds of findings in those four bore holes with
20 a siphon test, pump test of the well. And we ran
21 that test at varying modest rates for about -- over a
22 period of about two-and-a-half hours, and then let it
23 recover. And we started about 9:30, ended about
24 12:00, and by 5:00 o'clock that afternoon it still
25 had not fully recovered, it was still a drawdown of

1 one-and-a-half to two feet, but the water level when
2 we were pumping and had the water level down to five
3 to six feet below the static level, the upper end of
4 the seep got dry because the water was no longer
5 leaking from the well into the seep, it was being
6 pumped out instead.

7 But by 5:00 P.M. that afternoon where the
8 water level had come back to within one-and-a-half or
9 two feet of the static level, the flow in the upper
10 end of the seep as leakage from the well had resumed.

11 And then I went back the next day and the
12 water level was fully recovered, and the seep was
13 also fully recovered under its artesian pressure.

14 So that's kind of the characteristic we're
15 talking about.

16 You'll also notice that if you look at this
17 topography, it's kind of a bowl-shaped area through
18 which underflow is coming and adding to the flow in
19 the seep that was started with a discharge from the
20 well itself.

21 The project -- what's proposed for the
22 project is that there will be three roughly parallel
23 retaining walls, the first of which kind of on this
24 order, and the others are roughly parallel and
25 further upslope.

1 The retaining walls themselves are going to
2 be relatively shallow footed, and also they will have
3 drains, but I don't think the walls themselves,
4 because of their shallow footing, won't be
5 intercepting what we've established as the layer
6 where the subsurface flow is occurring.

7 However, there will be substantial fill
8 behind each of these retaining walls, and the fill
9 itself may compress this lower layer that's the
10 subsurface flow is feeding into the seep. And in the
11 process, either impede or redirect or otherwise
12 adversely impact the seepage, this linear seep that's
13 ongoing today.

14 So that became a concern that we can't
15 predict accurately will or will not occur, but to err
16 on the side of caution, we have proposed that what is
17 put in place before the retaining walls go in, before
18 the fill goes behind the retaining walls, we would
19 put in a series of subsurface drains, so that they
20 would enable -- if the layer that's conveying the
21 subsurface flow is compressed and has reduced
22 permeability, and the flow to the seep is otherwise
23 impeded in some way, these drain systems, this
24 herringbone kind of system would gather up that flow
25 and deliver it down to maintain the flow of the seep.

1 So that's the recommendation to avoid a
2 possible diminution of the subsurface flow that
3 maintains the seep.

4 And that would conclude my direct
5 testimony.

6 CHAIRPERSON SCHEUER: Thank you, Mr. Nance.
7 Is there further, Mr. Matsubara, from you?

8 MR. MATSUBARA: I just have one final
9 question.

10 Q Is there going to be a method by which
11 water level flow in the subsurface drains can be
12 controlled so that it's not too much or not too
13 little going to the seep?

14 A Let me answer that question in a couple of
15 different ways.

16 First off, when we put these drain systems
17 in, there will be, in fact, an increase in flow. It
18 might go from the 1 or 2 or 3 gallons a minute to the
19 seep to as much as maybe 15 or 20 gallons a minute.
20 That will be a dewatering of the water that is above
21 these drain systems, and it will persist for at least
22 a number of hours, possibly a number of days, after
23 which it will diminish and go back to what is the
24 natural discharge into the seep.

25 So that short-term flow at 15 to 20 gallons

1 a minute is only transitory. And I would put that in
2 perspective. If you look at the area, surface area
3 that is tributary to the seep, it's more than an
4 acre. So in a rainfall runoff event, there might be
5 4 or 5 cubic feet a second of surface runoff going
6 through this and down to the same outlet that the
7 seep occurs. Four to 5 cfs is something on the order
8 of 1800 to 2200 GPM. So that short-term dewatering
9 by these drain systems would only be about one
10 percent of what the surface water flow through this
11 area is during a significant rainfall runoff
12 producing event.

13 However, we could do two things. One is we
14 can put valves on the end of this discharge system so
15 that if it in fact is discharging a flow that is in
16 excess of what seems reasonable to maintain the
17 habitat, we can valve back the discharge from these
18 drain systems.

19 The other thing is that in the event that
20 the drain system isn't doing completely the job that
21 we need it to do to maintain the seep, it is quite
22 possible to extend a waterline to the dug well,
23 discharging 1 or 2 gallons a minute into the dug well
24 to maintain the flow in the seep, call it
25 artificially by augmenting the flow.

1 So the short-term excess discharge can be
2 controlled, and if we are not getting enough water
3 through, we can augment it by simply bringing in
4 water and discharging it into the dug well.

5 MR. MATSUBARA: Thank you, Tom. No further
6 questions. Mr. Nance is available for
7 cross-examination.

8 CHAIRPERSON SCHEUER: Mr. Nance, I'm going
9 to ask you to stop screen sharing, at least for a
10 minute. And we will start off with the City and
11 County.

12 MR. PANG: The City has no questions.
13 Thank you.

14 CHAIRPERSON SCHEUER: Office of Planning?
15 You are muted, Ms. Apuna.

16 MS. APUNA: Thank you, Chair. Just a
17 minute. Do you want to go on to the Intervenor while
18 we --

19 CHAIRPERSON SCHEUER: Sure, Intervenor.

20 MR. YOSHIMORI: Thank you.

21 CROSS-EXAMINATION

22 BY MR. YOSHIMORI:

23 Q Mr. Nance, I had a question.

24 You mentioned that the concern with regards
25 to the flow to the well, that we are going to be

1 building these retaining walls, and behind the
2 retaining walls you're going to be filling that. And
3 there is concern that the fill behind the retaining
4 walls -- I may have misunderstood it -- but that's
5 going to push down on the ground and may affect the
6 water seeping through to the well.

7 Did I get that right?

8 A Yes, you did.

9 Q And in my imagination I was thinking
10 that -- in your earlier testimony you said that this
11 water is seeping above the upper crust. So I'm
12 assuming the upper crust is where the hard lava is,
13 and sitting on top of that is the clay.

14 So is the water flowing through that clay
15 over the upper crust, or is it going to be on the
16 higher level where you put the backfill on? Where is
17 the concern?

18 A Okay. You don't exactly have the sequence
19 of the strata correctly.

20 Volcanics are at very substantial depth,
21 maybe 50 or 60 feet. So we're just talking about
22 what's moving through the soil layer, and there is an
23 upper, let's say ten feet or so in the vicinity where
24 we drilled those wells where it's silty clay that's
25 relatively impermeable, and through which water is

1 not moving. It's moving through the soil layer that
2 is below that upper layer.

3 So when you put a fill on top of the silty
4 clay and you add that loading, it has a possibility
5 of compressing that subsurface layer through which
6 the water is moving.

7 Q Those herringbone drains are proposed to be
8 on top of that ten-foot of soil, is that correct; or
9 is it going to be at that lower level?

10 A No, it's at the lower level, so it will be
11 in the strata through which the water is actually
12 moving. It's not on the surface.

13 Q So you had testified that the retaining
14 walls are going to be -- they're not going to have
15 deep footing into the soil, that it was just going to
16 be laid on top of the soil and built up on top of
17 that, and then the fill would be behind.

18 I'm imagining now that you're saying we
19 have to remove the ten feet of soil first, then put
20 in the herringbone drainage, put in back the ten
21 feet, build the wall, and then fill; is that correct?

22 A Yes, that's the sequence, yes.

23 Q So there is disturbance to the uphill soil,
24 you have to remove that before you can put the
25 herringbones in?

1 A Yes, it's trenching to put the drain system
2 in, yes.

3 Q In the subsurface drains, the augmented
4 waterline, and the recording device, you mentioned
5 those things as mitigations. And that mitigation is
6 for what purpose again?

7 A To maintain the flow in the seep so that
8 the habitat for the damselfly is also maintained.

9 Q Will the -- so you had earlier mentioned
10 that there's two different ways to control the flow
11 into the seep area. One of them, it sounded like you
12 can put a spigot on the end of the herringbone, and
13 the other one was adding the additional supply hose.
14 Was that correct?

15 A Yeah. The additional supply, if needed,
16 would be delivered into the dug well.

17 Q On both of those, the spigot on the
18 herringbone as well as the water, the additional
19 hose, is that going to be controlled automatically or
20 manually?

21 A The valves at the end of the herringbone
22 drain system, that would be manually controlled,
23 whereas the discharge into the dug well can easily be
24 automatically controlled by a float in the water
25 level in the well itself.

1 Q What would happen to the well if that water
2 was interrupted and the supplemental water was not
3 initiated?

4 A Not sure I understood the question. The
5 water is interrupted --

6 Q So let's assume that we build the walls, we
7 put the fill in, and it disturbs, it pressurizes the
8 water going to the seep, and someone forgets to turn
9 on the hose to supplement the water, or to open the
10 spigot at the end of herringbone, and that water
11 stops.

12 What would happen to the flow rate of the
13 seepage coming out by the well?

14 A Well, if both the drain system was closed,
15 the hose that goes to the dug well somehow was
16 closed, and also that the fill behind the retaining
17 walls, in fact, impeded the flow of groundwater or
18 otherwise diverted it so it didn't go into the seep
19 as it does today, the habitat obviously would be
20 adversely impacted as a result.

21 Q Thank you. Those are all the questions I
22 have. Thank you.

23 CHAIRPERSON SCHEUER: Thank you, Mr.
24 Yoshimori.

25 Ms. Apuna.

1 MS. APUNA: Thank you, Chair. Thank you,
2 Mr. Nance, for your testimony. We have a couple of
3 questions.

4 CROSS-EXAMINATION

5 BY MS. APUNA:

6 Q First, can you provide an example of other
7 projects that utilize the herringbone design? And do
8 they have data to show the flow increases as
9 projected, and whether it can be effectively reduced
10 with a valve as you stated?

11 CHAIRPERSON SCHEUER: Ms. Apuna, just
12 because during appearances you only noted you were
13 there for OP, but you're now saying "we", could you
14 share who --

15 MS. APUNA: OP, Office of Planning. I'm
16 here on behalf of State Office of Planning.

17 CHAIRPERSON SCHEUER: It sounded like you
18 were talking with somebody. I just wanted to focus
19 on transparency to know who was representing your
20 client.

21 MS. APUNA: Oh, I'm sorry. Lorene Maki and
22 Rodney Funakoshi are here with me.

23 CHAIRPERSON SCHEUER: Thank you. So now,
24 Tom.

25 THE WITNESS: See if I can remember your

1 question.

2 The herringbone pattern is actually --
3 although I haven't used it on a project like this --
4 it's a very difficult application. Almost every
5 single football field, for example, has such a drain
6 system. Golf course greens have such a drain system.
7 It's designed to convey the water away from wherever
8 the drain system is being put in.

9 With regard to can we control what the
10 drain system is delivering, these are probably going
11 to be two-inch PVC perforated pipe, and put a
12 two-inch valve at the end of that, and it will
13 absolutely shut off the flow.

14 Q (By Ms. Apuna): Did you say that was
15 automatically done or manually done?

16 A No, the valves on the discharge -- on the
17 drainage system would be manually operated. They
18 wouldn't be automatically opened or closed.

19 Q And then as far as the irrigation line, I
20 think you mentioned twice that it would be used if
21 needed, so that that irrigation line would not be
22 installed -- it wouldn't be installed unless and
23 until there is the need for it; is that correct?

24 A Yes. If you're worried about the timing,
25 what I'm recommending, number one, is to put a

1 recorder into the well so we can find out what is
2 happening to the well's water level, a first
3 indication if the fill is in fact somehow diminishing
4 the flow to the well, and the well water level is
5 dropping.

6 You can get a temporary line down to it in
7 a matter of hours, and then if it is going to be
8 needed, change that to a permanent line subsequently.

9 But it's very easy once you're aware that
10 somehow the drain system isn't providing enough
11 water, we can get -- in a very short time, we can get
12 a temporary line down there to deliver water into the
13 well, and then subsequently replace it with a
14 permanent line.

15 MS. APUNA: Okay, thank you. No further
16 questions.

17 CHAIRPERSON SCHEUER: Thank you, Ms. Apuna.
18 Commissioners, are there questions for Mr.
19 Nance? Commissioner Okuda.

20 COMMISSIONER OKUDA: Thank you very much,
21 Mr. Chair. Thank you for your testimony, Mr. Nance.

22 Just so that we have it in plain English,
23 the bottom line is this, if the water flow stops, for
24 whatever reason, there's a reasonable chance
25 endangered species, the damselfly, could all die. Is

1 that your understanding?

2 THE WITNESS: I'm not going to go there
3 with the death of the damselfly, but what I would say
4 is if the water level stops, the seep will dry up.

5 COMMISSIONER OKUDA: And the existence of
6 the seep is necessary to keep the damselfly
7 population alive in the area; is that your
8 understanding?

9 THE WITNESS: I'm not an expert on
10 damselfly. You need to address that question to
11 someone who is.

12 COMMISSIONER OKUDA: But you have been
13 requested -- well, who requested you to prepare this
14 mitigation proposal?

15 THE WITNESS: I was requested to provide
16 the assessment by the HHF Planners, and the
17 mitigation is my recommendation based on what I
18 found.

19 COMMISSIONER OKUDA: And that's because of
20 the existence of the population of a federally
21 recognized endangered species, correct?

22 THE WITNESS: Yes.

23 COMMISSIONER OKUDA: Did you read the
24 concerns raised by the U.S. Fish and Wildlife Service
25 in their letter which was attached as Appendix,

1 Exhibit A-2.

2 THE WITNESS: Not that I can recall.

3 COMMISSIONER OKUDA: Well, the service, in
4 their letter, and that's at page 4, stated this, and
5 they quoted from the Draft EIS. Let me read it to
6 you, then my question is really was this your opinion
7 at the time? The service in their letter writes:

8 "However, on page 3-67 the DEIS states that
9 the weight of the fill material has the potential to
10 compress existing soils and interrupt or redirect
11 groundwater migration that is moving downslope. This
12 could reduce the permeability of these already poorly
13 permeable soil impeding or rerouting the downslope
14 direction of the groundwater flow."

15 Was that your opinion to the best of your
16 recollection?

17 THE WITNESS: Yes, it's a possibility.

18 COMMISSIONER OKUDA: Then I'm going to read
19 you something else from the same paragraph that the
20 service wrote, and I'm going to ask you whether you
21 agree or disagree.

22 After that sentence the service wrote:

23 "These two statements appear to be at odds
24 with each other, one asserting no impacts, the other
25 admitting that impacts might well occur."

1 But this is the part I would like you to
2 comment on.

3 "We believe that impacts have a reasonable
4 likelihood of occurring due to both excavation into
5 slopes above the spring habitat that may penetrate
6 bedrock and soil compaction impacts as described
7 above."

8 Do you agree with that statement that those
9 impacts have a reasonable likelihood of occurring for
10 the reasons that the service stated in the rest of
11 that sentence?

12 THE WITNESS: There is a possibility of
13 that impact, and that's why I have recommended the
14 drain system that I discussed previously.

15 COMMISSIONER OKUDA: Can you in any way
16 give us a percentage estimation of the likelihood of
17 success of your proposed mitigation scheme or
18 mitigation plan?

19 THE WITNESS: I think the probability is
20 very high, particularly, you know, we have the option
21 to augment the natural flow, if necessary, so I
22 believe we can maintain the flow in the seep as
23 required.

24 COMMISSIONER OKUDA: Now, just so that --
25 and I'm not really clear about this. Is the

1 equipment to augment the flow, is that going to be
2 located in the cemetery expansion area, or is that
3 going to be in the cultural preserve or some other
4 area?

5 THE WITNESS: It will be from the
6 landscaped area directly upslope from the well, which
7 is definitely -- that's where it will be, just a
8 small one-inch pipeline that comes down the slope to
9 the well.

10 COMMISSIONER OKUDA: Okay, but the
11 equipment -- let's -- well, is it going to be like a
12 valve to open and close to augment the well if
13 necessary?

14 THE WITNESS: If it is necessary, yes.
15 There will be a valve. It's almost like a cattle
16 trough kind of a thing where you have a float valve
17 in the well. When the water level in the well drops,
18 water in the pipe comes down. When the water level
19 has recovered back up, the valve closes.

20 COMMISSIONER OKUDA: Can you point to where
21 in the record there's any evidence or document that
22 shows which entity, or who would be responsible for
23 maintaining this adequate level of water into the
24 damselfly habitat?

25 Will it be Hawaiian Memorial Park? Will it

1 be the perspective holder of the conservation
2 easement, which is the Hawaiian Islands Land Trust?
3 Or would it be the proposed cultural managers, the
4 Koolaupoko Hawaiian Civic Club? Or is it we really
5 don't know who is going to be responsible for this?

6 THE WITNESS: It's the last of those. I
7 think it's a question that would be addressed to
8 management of Hawaiian Memorial Park. I have not
9 discussed that aspect with anyone.

10 COMMISSIONER OKUDA: And finally, can you
11 point to any other situation involving protection of
12 a habitat of a federally recognized endangered
13 species where this type of mitigation method or plan
14 has been successful in so protecting the endangered
15 species?

16 THE WITNESS: I'm not aware of any scheme
17 such as what I put forward here.

18 COMMISSIONER OKUDA: So I know life is full
19 of risks, just like these other engineers said, there
20 is no guarantees in life. We understand that. But
21 would you agree that if the primary purpose is the
22 protection of the damselfly habitat, the best
23 protection is simply not to disturb the method in
24 which the habitat is receiving water?

25 THE WITNESS: I don't necessarily agree

1 with that. I think with the mitigation that I
2 proposed, the seep can be maintained as it is now.

3 COMMISSIONER OKUDA: Thank you very much.
4 Thank you, Mr. Chair. No further questions.

5 CHAIRPERSON SCHEUER: Thank you.

6 Commissioner Chang followed by Commissioner
7 Cabral.

8 COMMISSIONER CHANG: Thank you very much,
9 Chair.

10 Good afternoon, Tom, thank you so much for
11 being here.

12 Mr. Okuda asked some of my questions, so I
13 just have one final question for you.

14 Has your proposed mitigation measure been
15 reviewed and considered by U.S. Fish and Wildlife?

16 THE WITNESS: I'm not aware of that.

17 COMMISSIONER CHANG: Who would best know
18 that? Would that be Mr. Montgomery? Mr. Morford?
19 Who would know that, do you know?

20 THE WITNESS: I don't know that either, I'm
21 sorry.

22 COMMISSIONER CHANG: But you were just
23 asked to propose a mitigation measure and this is
24 what you came up with, but you don't know whether
25 this has been discussed with U.S. Fish and Wildlife?

1 THE WITNESS: That's correct.

2 COMMISSIONER CHANG: Thank you very much.

3 CHAIRPERSON SCHEUER: Thank you,
4 Commissioner Chang. Commissioner Cabral.

5 VICE CHAIR CABRAL: Thank you for the
6 information. I'm from Hilo so I have somewhat the
7 completely opposite concern.

8 Other questions have been what if the water
9 stops going into that area. My question is more of a
10 concern of in the event of what's been set up is to
11 somehow maintain and/or direct water, what if you
12 have a massive flood in the area that would alter or
13 so inundate the area with some type of flooding, how
14 is your system going to be able to handle that
15 without potentially causing problems that could
16 disturb the land, the retaining walls, the habitat
17 for the damselfly in particular, because you're
18 altering things?

19 I'm just concerned of the 40 days and 40
20 nights of solid rain. How are you going to protect
21 things at that point is my question, if that's part
22 of the study?

23 THE WITNESS: Well, the mitigation that I
24 have proposed, subsurface drains would not be
25 impacted by that, and the water pipeline, the

1 permanent one at least would be underground. So I
2 don't think anything that I'm proposing here would be
3 impacted by a very substantial rainfall runoff event.

4 Those events have happened in the past.
5 They very likely inundated the habitat for the
6 damselfly, at least on a temporary basis.

7 VICE CHAIR CABRAL: So probably no effect,
8 nothing you're doing is going to alter how massive
9 rainfall is going to affect the area; is that what
10 you're saying?

11 THE WITNESS: Yes, that's correct.

12 VICE CHAIR CABRAL: Thank you.

13 CHAIRPERSON SCHEUER: Thank you,
14 Commissioner Cabral.

15 Other Commissioners? If not, I have a few
16 questions for Mr. Nance. Any other Commissioners?

17 Mr. Nance, one of my questions was that my
18 basic understanding of the proposal of the project is
19 that it will transform not only the topography of the
20 site and the above-ground soil profile, but it will
21 go from a forested landscape to a mostly lawn
22 landscape for the cemetery above this --

23 THE WITNESS: That's my understanding, yes.

24 CHAIRPERSON SCHEUER: Did your work at all
25 look at the change to recharge levels that might be

1 feeding the seep as a result of this vegetation
2 change?

3 THE WITNESS: I didn't evaluate it
4 specifically, but I think when you're talking about
5 landscape, grass, the recharge is probably going to
6 be at least on the same order of magnitude as it is
7 today. Right now it's deeply sloped, and once it's
8 grassed, the slopes will be flatter, and more likely
9 to let the rainfall runoff infiltrate rather than run
10 down the steep slope.

11 CHAIRPERSON SCHEUER: My impression has
12 generally been that forested landscapes tend to allow
13 greater levels of recharge than grass landscapes; is
14 that not correct?

15 THE WITNESS: Well, all things being equal,
16 but this is a very steeply-sloped land, and that
17 promotes rapid runoff. And it will be changed to
18 something that is terraced grass area, so I think
19 there is pluses and minuses to both ways.

20 CHAIRPERSON SCHEUER: In any case this was
21 not part of your study to look at any potential
22 recharge changes that would affect the flow into the
23 seep; is that correct?

24 THE WITNESS: That's correct, I did not.

25 CHAIRPERSON SCHEUER: Okay, thank you.

1 And then if I understood your testimony and
2 relate your both direct and subsequent testimony in
3 response to questions, you are preparing for the
4 contingency that this drainage, herringbone system
5 may not work, and that there could then be alternate
6 provision of water through a hose, presumably from
7 the municipal system to the site. I understood that
8 correctly?

9 THE WITNESS: Yes, you did.

10 CHAIRPERSON SCHEUER: Forgive me, I might
11 be rephrasing a question from Commissioner Chang, but
12 often the U.S. Fish and Wildlife Service will either
13 approve a habitat conservation plan, or issues a
14 scheduled take permit if there is a possibility that
15 species might be affected by a project, but if I
16 understood your response correctly, your work has
17 not, to your knowledge, been considered by the Fish
18 and Wildlife in either the issuance of a HCP or an
19 incidental take project; is that correct?

20 THE WITNESS: That is correct, yes.

21 CHAIRPERSON SCHEUER: And then two more
22 questions.

23 The third one is, you looked exclusively at
24 the volume of water, no other water parameters like
25 temperature or quality; is that correct?

1 THE WITNESS: That's correct, yes.

2 CHAIRPERSON SCHEUER: I want to make sure I
3 understood.

4 Finally, I just wanted to ask because of
5 your really extensive experience in Hawaii, this is
6 similar to a question asked by Commissioner Okuda of
7 Mr. Holliday.

8 Can you talk, speak to any projects where
9 you've been a paid consultant where you've actually
10 identified a negative adverse impact to a cultural or
11 natural resource from a project?

12 THE WITNESS: I can't remember necessarily
13 for cultural things, but impacts in general primarily
14 to groundwater, the use of groundwater by others,
15 potential contamination, adverse impact on existing
16 wells, that often comes up in the work I do.

17 CHAIRPERSON SCHEUER: Did you have a couple
18 of examples that spring to mind that might be
19 analogous to this?

20 THE WITNESS: Working -- I guess a couple
21 things. One is out in Ewa working with four
22 developers each trying to develop out there, came up
23 with schemes that work, mostly worked for all four.
24 Same thing in South Kohala where you have a myriad of
25 developers trying to put wells in that potentially

1 adversely impact each other, and kind of being the
2 person in the middle trying to find a result that
3 works for everybody. So that's -- I often run into
4 that kind of thing.

5 CHAIRPERSON SCHEUER: And, thank you, I
6 definitely honor and acknowledge your expertise with
7 wells.

8 Is there an example of one where you've
9 found in your consulting experience that the
10 development of a well or a water source has affected
11 a natural resource that's dependent on groundwater?

12 THE WITNESS: Not that I can remember.

13 CHAIRPERSON SCHEUER: Thank you so much. I
14 have nothing further.

15 Is there anything further from any of the
16 Commissioners? If not, Ben, do you have any
17 redirect?

18 MR. MATSUBARA: Yes, two questions on
19 redirect.

20 REDIRECT EXAMINATION

21 BY MR. MATSUBARA:

22 Q Tom, are you aware of the mitigation plan
23 committed to by the owner based on the work you've
24 done and what our Dr. Steven Montgomery has done, is
25 the intent to install a surface line with the flow

1 valve immediately upon the improvements being made
2 and not as needed? It's to be put in immediately?

3 A To be honest, I was not aware of that.

4 Q Okay.

5 That's part of the mitigation plan which
6 will be testified to by Dr. Montgomery.

7 Second thing, Tom, with the waterline and
8 the subsurface drains, do those two measures provide
9 additional assurance providing a water level to the
10 seep that will be favorable to the damselfly?

11 A It will be favorable to maintaining the
12 existing flow in the seep. I leave off the damselfly
13 part.

14 MR. MATSUBARA: Thank you.

15 CHAIRPERSON SCHEUER: Commissioner Okuda,
16 your hand is raised.

17 COMMISSIONER OKUDA: Thank you, Mr. Chair.

18 Just a question, and I forgot to ask it,
19 about Dr. Nance, the scope of your testimony.

20 Do you have any opinion about what the
21 calculated amount would be of runoff from any fill or
22 excavated materials at the site, was that something
23 outside of what you were retained to study?

24 CHAIRPERSON SCHEUER: Gary, I'm just being
25 overly cautious here. I didn't see whether your hand

1 was up before and I missed it.

2 Ben, do you have any problem with Mr. Nance
3 answering the question? You're muted. No problem?

4 COMMISSIONER OKUDA: Chair, I'm sorry, I
5 thought I had my hand up.

6 CHAIRPERSON SCHEUER: I didn't see it.

7 MR. MATSUBARA: No problem, Mr. Chair.

8 CHAIRPERSON SCHEUER: Sorry, Mr. Okuda,
9 Commissioner.

10 COMMISSIONER OKUDA: Mr. Nance, it's just a
11 question about the scope of the work that you were
12 asked to do.

13 Did any of your work involve calculating
14 the potential amount of silt or dirt which might
15 runoff in the course of construction?

16 THE WITNESS: It did not.

17 COMMISSIONER OKUDA: Thank you very much.

18 CHAIRPERSON SCHEUER: Is there anything
19 further from any of the Commissioners? Anything
20 further, Mr. Matsubara?

21 MR. MATSUBARA: Nothing further, Mr. Chair.

22 CHAIRPERSON SCHEUER: If not, its 3:11.
23 What I'm going to propose is that we take a break and
24 then come back for at least the beginning of direct
25 and some questioning of Mr. Morford.

1 Is that acceptable to you?

2 MR. MATSUBARA: Thank you. Yes, it is.

3 CHAIRPERSON SCHEUER: It's 3:11 p.m., let's
4 reconvene at 3:21 P.M. Thank you. Thank you, Tom.

5 (Recess taken.)

6 CHAIRPERSON SCHEUER: Mr. Morford, I'm
7 going to swear you in and then hand you over to Mr.
8 Matsubara for direct, and followed by some
9 questions -- may have some questions, just a guess.

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

12 THE WITNESS: It is.

13 CHAIRPERSON SCHEUER: Thank you very much.

14 JAY MORFORD

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

18 DIRECT EXAMINATION

19 BY MR. MATSUBARA:

20 Q Will you state your name and address for
21 the record?

22 A My name is Jay Morford. Business address
23 is 1330 Mauna Kea Street, Honolulu, Hawaii.

24 Q What is your position with the Petitioner
25 Hawaiian Memorial Life Plan, Ltd.?

1 A I'm the President of Hawaiian Memorial Life
2 Plan. I've been with the company for 25 years, in my
3 current position since 2006. I'm also a Director and
4 President of the Hawaii Funeral and Cemetery
5 Association.

6 Q You prepared written testimony for your
7 presentation today, did you not?

8 A That is correct.

9 Q We have marked that Exhibit 30. That's
10 your written testimony, correct?

11 A That is correct.

12 Q Would you please summarize your written
13 testimony for the Commission, please?

14 A Sure, I would be happy to.

15 First, I would like to thank the
16 Commissioners and staff scheduling the hearing today.
17 I know that this is definitely a new experience for
18 everyone, but we do appreciate it from my company and
19 just wanted to extend our gratitude.

20 I would like to talk a little bit about our
21 company, if I may. Hawaiian Memorial Life Plan
22 provides cemetery and funeral services throughout the
23 State of Hawaii. We serve over 3800 families
24 statewide, and employ and provide benefits to over
25 204 employees.

1 Hawaiian Memorial Park is one of our most
2 essential businesses. We opened on Memorial Day in
3 1958 and currently have 80 developed acres.

4 Hawaiian Memorial employs approximately 75
5 employes, many of which belong to International
6 Longshore Workers Union. Hawaiian Memorial serves
7 approximately 1100 families annually in our combined
8 funeral and cemetery operation.

9 We're in a unique business, but unlike the
10 majority of cemeteries in the State of Hawaii,
11 Hawaiian Memorial Park is an Endowment Care Cemetery.
12 There are currently only 13 DCCA regulated Endowment
13 Care Cemeteries in Hawaii.

14 Regulated Endowment Care Cemeteries require
15 annual audits conducted by the State that there is
16 enough trust Endowment Care funds to maintain the
17 cemetery in perpetuity.

18 Without a required Endowment Care fund and
19 regulation, there could be long-term maintenance
20 problems with the cemetery.

21 Now, in 1983 Hawaiian Memorial purchased
22 203 acres from the Harold Castle estate for future
23 cemetery use. That was the original size of the
24 parcel. It was primarily being used as a dairy farm.
25 There was a dairy road on the parcel, cattle on the

1 property during that time. That dairy road actually
2 goes down to that well that was drilled,
3 coincidentally.

4 You can look at Petition Exhibit 3, if you
5 like, Part 1, photos, if you want to look at that.
6 I'm not going to share screen, but it's available for
7 you if you'd like to look at it.

8 We initially looked at our future inventory
9 needs and started the expansion plan process in 2008,
10 but as you are aware, a request and plan was denied
11 at the Land Use Commission in 2010. Many concerns
12 were raised during those hearings that we needed to
13 address, and based on that denial, we abandoned the
14 original plan and developed a plan that is in front
15 of the Commission today.

16 We did take into account the concerns that
17 were brought up by the community during the LUC
18 hearings, and started working on a new plan. We did
19 want to address all the concerns, maintain
20 sustainability, reduce the flooding, and protect the
21 cultural resource, but still secure future cemetery
22 space with the least amount of impact on the
23 community.

24 One way to do that was our commitment to
25 placing a conservation easement on the property.

1 This will prohibit any development on the remaining
2 parcel. If this project is approved, we will start
3 the process of securing the conservation easement.

4 On our site visit at Hawaiian Memorial
5 Park, we took everybody to our Ocean View Garden.
6 That garden is our most recent development, and
7 provided the Commission an opportunity to see the
8 finished product once the cemetery garden is
9 completed.

10 Any time you start to design a garden, you
11 create a master plan. That takes into account the
12 need for casket burial space and a cremation garden
13 for cremation memorialization. You do want to
14 maximize land capacity while maintaining our ethical
15 responsibility, provide design uniformity,
16 beautification and ongoing maintenance.

17 We currently have sold 93 percent of our
18 entire available casket inventory. Without the
19 expansion we are not going to be able to offer
20 families that option in the future.

21 With your approval, we will be able to
22 continue serving the families in the same manner we
23 have been over the last 62 years and secure long-term
24 employment for our families.

25 In closing, just to name a few things that

1 we have done over the past two years is, one, we did
2 take significant steps to reduce the overall
3 long-term impact to the community from the original
4 plan.

5 The distance from the newly developed
6 cemetery to Pohai Nani Senior Living Center allows us
7 to maintain 28.2 acres for cemetery, which is
8 consistent and referenced in the language of the
9 Koolaupoko Sustainable Communities Plan.

10 In addition, we are committing to a
11 conservation easement prohibiting any future
12 development on approximately 128 acres of Hawaiian
13 Memorial property, which will protect Pohai Nani from
14 any future development.

15 The grading plan shows we reduce flooding
16 and improve water quality runoff. We have identified
17 14-and-a-half acre of cultural preserve to protect
18 Hawaiian archeological sites. Most notably
19 Kawa'ewa'e Heiau, and we recently have increased the
20 damselfly habitat buffer for additional protection.
21 This reduced our allowable 28.2 cemetery acres by .7
22 acres. Now only allowing us 27 point acres out of
23 156 acres for cemetery use.

24 We submitted 1800 support signatures for
25 this project, and we conducted an SMS community

1 research poll. The results show the majority of
2 Oahu, 64 percent, support Hawaiian Memorial Park's
3 expansion, while only 7 percent oppose it.

4 And lastly, this expansion will ensure
5 long-term employment, additional jobs, and will allow
6 us to continue serving Hawaii families like we have
7 over the last 62 years.

8 We respectfully ask the Commission to
9 consider the Petition on all of its merits and allow
10 us to move forward to serve our families.

11 We do have the infrastructure and resources
12 to solve our future commitments. So with that, I'd
13 be happy to answer any questions.

14 CHAIRPERSON SCHEUER: Thank you.

15 Mr. Matsubara.

16 Q (By Mr. Matsubara): Mr. Morford, you
17 mentioned in your closing that you expanded the
18 damselfly buffer area, did you not?

19 A That is correct.

20 Q When did you first learn of the existence
21 of the damselfly on Hawaiian Memorial Life Plan
22 property?

23 A I believe if you refer to Exhibit 51, I
24 believe that's the exhibit. Is that correct?

25 Q It's Petitioner's rebuttal testimony 51.

1 A Yes, that's correct.

2 This is an article that was written by Nate
3 Yuen on Blackline Hawaiian Damselflies in Kaneohe, if
4 you could pull that up.

5 We first learned about the damselfly
6 population July 20th, 2017, at a Kaneohe Neighborhood
7 Board Meeting when it was first presented by Rich
8 McCreedy and Grant Yoshimori.

9 Q Do you happen to know when they first
10 learned about the existence of the damselfly on your
11 property?

12 A If you would refer to the exhibit that I
13 started out with, go to page 2, you note where Mr.
14 Yuen noted in his article -- I'll just read it
15 verbatim.

16 "In June of 2016 Liam Gray took me and
17 several Windward residents, Patrick Shay, Grant
18 Yoshimori," (indecipherable) "Yoshimori, Rich
19 McCreedy and Julie McCreedy to see the endangered
20 damselfly he discovered in Kaneohe."

21 If you go onto page 4 -- I'm sorry, page 5,
22 you note that the damselflies live on conservation
23 land owned by Hawaiian Memorial Park, so to answer
24 your question, we learned about it 13 months after
25 this alleged site visit took place.

1 Q What did you then do once you learned of
2 the possible existence of the damselfly on your
3 property?

4 A We contacted Steve Montgomery. And the
5 following week we scheduled a site visit for Mr.
6 Montgomery to be able to go out on the property, try
7 to identify the site. And then at that the point in
8 time we started taking protective measures and
9 putting that into our plan.

10 Q Dr. Montgomery continues to be your
11 consultant to assist you in measures that you need to
12 undertake to protect the damselfly?

13 A That is correct.

14 Q And it wasn't until you learned of its
15 existence on your property that you had the ability
16 to do that?

17 A That's also correct.

18 Q Let me move to one more area.

19 You've kept your parent company, SCI,
20 apprised of the progress of this project, have you
21 not?

22 A Yes, that is correct.

23 Q And they continue to remain fully committed
24 to supporting this project financially and in any
25 other way that's necessary to see it to fruition; is

1 that correct?

2 A That is correct. And to quote a phrase I
3 heard earlier, "it's shovel ready", so on approval we
4 will start taking steps to move forward with the
5 project.

6 Q Thank you.

7 I have no further questions, Mr. Chair.
8 Mr. Morford is ready for cross.

9 CHAIRPERSON SCHEUER: Thank you very much.
10 Let's start with the City and County.

11 MR. PANG: The city has a few questions.

12 CROSS-EXAMINATION

13 BY MR. PANG:

14 Q Mr. Morford, if the project moves forward,
15 you're going to be doing quite a bit of excavating
16 and grading.

17 Would you be willing to work with the
18 Department of Planning and Permitting to draw up a
19 landscaping plan?

20 A I don't see any reason why we wouldn't be
21 willing to do that.

22 Q Would you also be willing to work with the
23 City to develop a schedule replacement and replanting
24 of trees?

25 A Yes.

1 Q Thank you. I have nothing further.

2 CHAIRPERSON SCHEUER: Office of Planning.

3 MS. APUNA: Thank you, Chair, Office of
4 Planning does have a few questions for Mr. Morford.

5 CHAIRPERSON SCHEUER: Please proceed.

6 CROSS-EXAMINATION

7 BY MS. APUNA:

8 Q Thank you for your testimony, Mr. Morford.

9 First of all, can you tell us a little bit
10 more about SCI? I believe that's the parent company
11 of Hawaiian Memorial.

12 A Service Corporation International is the
13 parent company. We're a subsidiary of that company.
14 They own and operate multiple funeral homes and
15 cemeteries across North America, our operations being
16 a part of that network.

17 Q Are you authorized to make decisions on
18 behalf of SCI?

19 A I'm a -- I'm sorry, go ahead.

20 Q No, go ahead. You said you're an officer?

21 A I'm an officer of Hawaiian Memorial Life
22 Plan, and I've been given authority to make decisions
23 on this project.

24 Q Have you read Office of Planning's Position
25 Statement that includes 12 proposed conditions?

1 A I'm sorry, could you repeat that?

2 Q Have you read the Office of Planning's
3 Position Statement -- or testimony, I'm sorry, our
4 testimony, our written testimony that we submitted?

5 A I haven't read it. Right now I can't refer
6 to it in my memory.

7 CHAIRPERSON SCHEUER: Exhibit, Dawn?

8 MS. APUNA: I think it's Exhibit 1, Office
9 of Planning's Exhibit 1.

10 Q Maybe to refresh your memory a bit, we have
11 proposed 12 conditions at the end, which include
12 mitigation measures for the endangered species for
13 the damselfly, stormwater management and drainage
14 improvement. Do you recall those?

15 A I do recall those.

16 Q And so there's 12 of them, but with the
17 excepting of number three, which is the
18 Transportation DOT condition, are you able and
19 willing to commit to those proposed conditions that
20 we have offered?

21 A Yes, definitely.

22 Q So with regard to the subsurface system,
23 the valve for the --

24 A The subsurface water flow into the well, is
25 that what you're speaking to?

1 Q Yes, the manual -- who would be in charge
2 of managing that?

3 A So we're willing to take on that
4 responsibility, but that can be managed with other
5 entities. It's a little premature at this point to
6 say who it's going to be, but we are willing to take
7 on that responsibility, if necessary.

8 Q When you say "entities", you're referring
9 to Hawaiian Memorial Park and the Koolaupoko group?

10 A I'm speaking of whomever will end up with
11 the conservation easement on the property, and the
12 Koolaupoko Civic Club at this point. We can do it in
13 conjunction with them.

14 But like I said, we're willing to take on
15 that responsibility solely if needed.

16 Q With regard to the conservation easement,
17 you said that that would not -- you would not enter
18 into that agreement or negotiations for that until
19 and if you get approval for this boundary amendment;
20 is that correct?

21 A That's correct.

22 Q And can you tell us, though, any basic
23 terms that you would be agreeable to within that
24 conservation easement?

25 A Well, again, that's a bit premature as

1 well, because we wouldn't be able to even enter into
2 conversations with those that we have spoken with,
3 and in all fairest to Hawaiian Islands Land Trust,
4 they have their rules about what they can and cannot
5 do when a project is still in this process.

6 So whoever we determine -- whoever we end
7 up speaking with at that point in time, those
8 guidelines, rules would be set then. But we fully
9 expect this to be a condition of approval with the
10 Land Use Commission on us moving forward.

11 Q Right. So say that you get the boundary
12 amendment and then you move forward in negotiations
13 for the conservation easement, what if you cannot
14 come to an agreement?

15 A If it's a condition of approval, then we
16 would not be able to move forward with the expansion.

17 Q Okay. Thank you, Mr. Morford.

18 No further questions.

19 A You're welcome.

20 CHAIRPERSON SCHEUER: Thank you, Ms. Apuna.

21 Intervenor, Hui O Pikoiloa.

22 CROSS EXAMINATION

23 BY MR. YOSHIMORI:

24 Q Hello, Mr. Morford.

25 The EIS says Hawaiian Memorial Park's

1 current capacity is 79,000 plots; is that right?

2 A Sounds about right, yes.

3 Q And as of 2018 it says there are 25,000 pre
4 purchased burial spaces in Hawaiian Memorial Park; is
5 that correct?

6 A I don't have that figure in front of me.

7 Q So those pre purchased burials spaces,
8 those are purchased, but yet not occupied; is that
9 correct?

10 A If that -- so let me -- that's very
11 possible, yes, but I can't speak to that when I don't
12 have the actual information in front of me. However,
13 I will point out that Hawaii in general is very much
14 a pre -- they pre plan at the State, both on cemetery
15 and funerals, so prearrangement is very prominent in
16 the entire State of Hawaii.

17 So it's not uncommon for cemeteries to be
18 at a position we're in right now with prearranged
19 sales.

20 Q As of April 2018 there were 4500 plots
21 unsold at that time. Is that correct?

22 A That sounds correct.

23 Q So as of 2018 there are approximately
24 29,000 plots out of the 79,000, so 29,000 of them
25 were unoccupied; is that correct?

1 A I don't have the number in front of me, Mr.
2 Yoshimori, so I don't know if that's accurate or not.

3 CHAIRPERSON SCHEUER: Mr. Yoshimori, if you
4 are referring to specific exhibits, if you could just
5 reference those, please.

6 MR. YOSHIMORI: It's in the EIS, Section
7 2.1.2.1.

8 Q It has the figures for the remaining unsold
9 plots of 4500, and I believe it also talks about, EIS
10 page 2-11 mentions the 79,000 individual plots. And
11 the CBRE study quoted the 25,000 pre-purchased burial
12 spaces, which would be Appendix B in the EIS.

13 A Yes, based on what you're looking at, that
14 is accurate.

15 Q How many caskets does Hawaiian Memorial
16 allow to be buried in a single burial plot?

17 A So just for educational purposes and to
18 kind of clear up some, maybe some confusion on how
19 cemeteries operate and work, I think that our
20 industry is very complex and unique, and I think a
21 lot of folks have a difficult time grasping the
22 concept around Hawaiian Memorial Park's Endowment
23 Care Cemeteries.

24 So cemeteries will have business practices
25 that they have in place and how they operate. To

1 answer your question, we will allow up to two
2 interments into a casket space. That's what we will
3 allow, to answer your question.

4 Q Thank you.

5 And how many urns does Hawaiian Memorial
6 allow within a single burial plot?

7 A I'm going to use -- it's a casket space.
8 So in a casket space, we will add up to -- we will
9 put up to four inurnments into a casket space.

10 Q Is there an urn and casket option within
11 the casket space?

12 A Yes, there is. A family can put one casket
13 and two inurnments, they can put two caskets where
14 they can put up to four inurnments.

15 Q If there is an existing plot with a single
16 casket in it at the moment, is there an option to add
17 two additional urns onto that plot?

18 A That can get complicated based on how the
19 original purchase was made with the purchaser.

20 So when you have an individual that
21 purchased a single interment right, because actually
22 people are buying interment rights, not ground,
23 they're buying interment rights on the property.

24 So if a family bought a single interment
25 right into the casket space, and they wanted to add

1 additional inurnments, you would have to disinter
2 that individual. You would have to dig down nine
3 feet, put the casket down nine feet, and then put
4 outer barrel container on the top of that for
5 inurnments.

6 So there would be a disinterment that would
7 have to take place in that scenario.

8 Q For that term "interment right", how long
9 is that right for?

10 A Forever.

11 Q If a customer currently had say -- let me
12 rephrase that question.

13 So does a state cemetery, Valley of the
14 Temples Memorial, Oahu Cemetery and Mililani Memorial
15 also allow for more than one person to be placed
16 within that casket space?

17 A I don't know about Valley. I know Mililani
18 only allows one casket or two urns.

19 Q Mr. Ezer had confirmed in Mr. McCreedy's
20 letter response to the Draft EIS, which is the -- I
21 think the Petitioner's Exhibit 6, Appendix A, he said
22 that -- he confirmed that Oahu Cemetery allows up to
23 20 urns per plot.

24 Are there any laws preventing Hawaiian
25 Memorial from increasing the amount of urns per

1 casket space?

2 A So I would like to answer that question in
3 two ways.

4 I spoke earlier in my testimony about a
5 master plan with the cemetery. You don't design
6 casket spaces really primarily to be used for an
7 urnment. You design urnment spaces that maximize the
8 capacity of the land that are much smaller to
9 accommodate two inurnments.

10 So right now on our size of our inurnments,
11 we can get 12 inurnment spaces in the same land space
12 as the casket space, so we actually can get 24
13 inurnments in the same size as the casket space.

14 So to answer your question, that's how we
15 design our cemeteries in that manner.

16 To the point of where we don't allow 20
17 inurnments into one casket space, you run into next
18 of kin authorization problems. People have a right,
19 if they're an interment right owner, to authorize to
20 be interred in a gravesite. The more people you put
21 in, the more interment right owners you're going to
22 have, which can create conflicts in a family if you
23 have disputes on who wants to be interred at that
24 site.

25 So you're much better off, from a business

1 practice, on how to work with our families and our
2 business. If you design the cemetery to accommodate
3 two inurnments, which could be husband and wife,
4 whatever you want it, and then maximize the land that
5 way, versus just taking a whole casket space.

6 In addition to that, I've had -- I had an
7 individual that wanted 40 inurnments in one area.
8 And he sat down with us and we designed -- it looks
9 like a private mausoleum for a casket, but this is
10 aboveground, kind of a haka, it looks like a haka,
11 but it's not a Japanese haka, where he has the
12 capacity to put 40 inurnments on top of the gravesite
13 all in one place.

14 So that is part of the cemetery design and
15 master plan that I'm speaking to.

16 Q Does Hawaiian Memorial periodically use
17 pesticides?

18 A No.

19 Q My mom's lawn once had these worms, and she
20 had to spray poison because the grass was turning all
21 brown. If that occurred at the cemetery, would you
22 use pesticides for that condition?

23 A The only time that we have ever used
24 pesticides is in the old section over where we have
25 had some mosquito problems years ago. But we don't

1 use any pesticide.

2 Q What are the price ranges for Hawaiian
3 Memorial in-ground burial plot?

4 A I'm going to speak to interment rights
5 again. And, I believe, and I don't have prices in
6 front of me, it's been a long time that I've been in
7 the field, so I think our range is between 4,000 up
8 to \$30,000. So we have a range based on location and
9 based on availability.

10 Q What percentage of that \$4,000 -- what
11 percentage of your total capacity is that \$4,000
12 range?

13 A Well, a lot of it is in the older section.
14 You were referencing in the DEIS the exhibit, you can
15 look at our map on the red on everything that is sold
16 out. So much of it is in that area, in the existing
17 section, the original 72-acre parcel before Ocean
18 View development occurred.

19 Q Have you thought about what the price range
20 is going to be for the proposed development?

21 A No, that would be determined based on
22 construction cost and, you know, how it all works out
23 in as far as what we are able to design and what the
24 initial cost involved.

25 Q Part of the proposed mitigation to protect

1 the damselfly habitat includes inspection of well
2 levels, inspection for invasive species, and to
3 manage the well water levels.

4 And page 36 of the Petitioner's Second
5 Amendment says, quote: "The management and
6 conservation of this seep habitat area by the civic
7 club may be more appropriate," unquote.

8 Has it been determined who is going to
9 manage this damselfly habitat?

10 A As I mentioned earlier with Office of
11 Planning, we will take on any responsibility we need
12 to. It's a little premature. Much of those details
13 will be worked out later on.

14 Q Has the civic club already agreed to take
15 over management of the seep?

16 A Of the seep?

17 Q Of the damselfly habitat.

18 A That hasn't been discussed with them.

19 Q Looking at the City's testimony, one of the
20 conditions that they are facing is that there be an
21 equal replacement of canopy covering for the trees
22 removed for this development.

23 Does Hawaiian Memorial Park have land
24 available for replacement of those trees, remove the
25 trees?

1 A I think I'm going to defer to one of our
2 expert witnesses on that and give them -- we are
3 committed to doing tree replacement and I don't have
4 the expertise regarding on exactly what -- where that
5 would happen and how we would do that, but we are
6 committed to doing the tree replacement.

7 Q Thank you, Mr. Morford. Those are all the
8 question I have. Thank you.

9 A You're welcome.

10 CHAIRPERSON SCHEUER: Thank you, Mr.
11 Yoshimori.

12 Commissioners, it is 4:00 o'clock. We
13 could possibly go to 4:30. It depends somewhat on
14 your stamina as well as Mr. Morford's stamina.

15 We started around 3:20. We could go to
16 4:20. Does that sound good to start to launch into
17 Commissioner questions?

18 Who would like to start asking questions?
19 Commissioner Ohigashi followed by Commissioner Okuda.

20 COMMISSIONER OHIGASHI: My question deals
21 with the previous question raised about the secondary
22 market for funeral lots.

23 I'm not sure if I'm like many other people,
24 but I remember in the '70s my father and mother
25 purchased several funeral plots at Maui Memorial.

1 And essentially what they did was they decided not to
2 use them and to be interred at the hongwonji, but
3 they intended it to be generational. So I have
4 control of that right now and I'm supposed to use it,
5 and it may turn out that I don't use it.

6 So how long do these -- is that typical of
7 these prepaid, or 25 whatever, 25,000 prepaid, is
8 that typical to prepay, or is that unusual to prepay?

9 THE WITNESS: I'll comment to the best of
10 my ability. I think if you go back into the time
11 frame when your parents bought back in the '60s and
12 '70s, the intent was to have you there with them.
13 That was kind of the intent, they wanted all the
14 family together.

15 Through the years these things changed.
16 Families make different decisions and choices on what
17 direction they're going to go. We try to encourage
18 people, if they -- if we do have someone that comes
19 in and says I don't want this any more, we try to
20 encourage them to keep it and, you know, someone will
21 eventually, in the family, will utilize it.

22 And something that was bought back from the
23 '70s, that property that your parents bought were
24 probably 500 bucks, right around that time frame.
25 And today they're probably about five grand. So

1 you're looking at quite a difference in pricing, but
2 that space is there for your family forever.

3 So it's there. And as far as families
4 selling for a secondary market, I don't have a lot of
5 information in regards to that at all. I really
6 don't.

7 COMMISSIONER OHIGASHI: The only reason I
8 brought that up, I was considering this as a reason
9 why there isn't a very good secondary market. Most
10 people would keep those plots that were purchased
11 when they were relatively cheaper or less expensive,
12 and eventually use them for their families.

13 The question is -- within the model of
14 determining whether or not there is demand for
15 additional -- the need to justify additional
16 expansion -- that concept within that --

17 THE WITNESS: I definitely am not Tom
18 Holliday in his report. The only thing that I can
19 share with that is there would be no way for us to
20 know what a family's intent is, you know, from 20,
21 30, 40 years ago. Even moving forward we are not
22 going to know the intent of the families.

23 So they make those decisions on a day to
24 day basis what they're going to do. So I don't know
25 if it would necessarily have an impact, sir.

1 I think that families need to do what's
2 best for them, and we do what we can to try to help
3 them through the process in regards to the property.
4 But we are not going to know what the intent of the
5 family is.

6 COMMISSIONER OHIGASHI: I was just curious.
7 Thank you.

8 THE WITNESS: You're welcome.

9 CHAIRPERSON SCHEUER: Is that it,
10 Commissioner? Okay, thank you.

11 Commissioner Okuda.

12 COMMISSIONER OKUDA: Thank you very much,
13 Mr. Chair. Thank you, Mr. Morford, for coming here
14 today and testifying.

15 Hawaiian Memorial Park, even though it was
16 -- when was it first incorporated in the '50s?

17 THE WITNESS: It opened Memorial Day 1958.

18 COMMISSIONER OKUDA: And Hawaiian Memorial
19 Park, at some point in time all its stock was
20 purchased by the parent company SCI, meaning Service
21 Corporation International, correct?

22 THE WITNESS: Yes that's correct.

23 COMMISSIONER OKUDA: Approximately what
24 year did SCI purchase all the shares of stock of
25 Hawaiian Memorial Park?

1 THE WITNESS: I think it was mid year 1992.

2 COMMISSIONER OKUDA: SCI purchased it from
3 basically an entity owned or controlled by John Henry
4 Felix and John Ferraris; is that correct?

5 THE WITNESS: Yes, it is.

6 COMMISSIONER OKUDA: What was that date
7 again of purchase, was it mid 2008, did you say?

8 THE WITNESS: In 1992.

9 COMMISSIONER OKUDA: I'm sorry, mid 1992.

10 SCI, Services Corporation International on
11 its website states that it's the world's largest
12 funeral cemetery and mortgage company, or words to
13 that effect; is that correct?

14 THE WITNESS: Yes, it is.

15 COMMISSIONER OKUDA: Is SCI, in fact, the
16 world's largest cemetery mortgage or funeral company?

17 THE WITNESS: To my knowledge there's no
18 one bigger than SCI.

19 COMMISSIONER OKUDA: They're a
20 multi-billion dollar company, is that correct?

21 THE WITNESS: They're the largest company
22 in the world in our industry.

23 COMMISSIONER OKUDA: And based in what
24 state?

25 THE WITNESS: They're based in Houston,

1 Texas.

2 COMMISSIONER OKUDA: Before SCI purchased
3 all the interests in Hawaiian Memorial Park from Mr.
4 Ferraris and Mr. Felix, did SCI do due diligence to
5 investigate exactly what it was buying?

6 THE WITNESS: I was not with the company at
7 that time. I can't speak to any due diligence that
8 was done.

9 COMMISSIONER OKUDA: But you worked for
10 companies that have been owned by SCI or maybe you've
11 worked for SCI, is that correct?

12 THE WITNESS: Could you repeat the
13 question?

14 COMMISSIONER OKUDA: Have you ever worked
15 for SCI itself?

16 THE WITNESS: My current employer is
17 Hawaiian Memorial Life Plan.

18 COMMISSIONER OKUDA: Have you ever worked
19 for SCI as your employer?

20 THE WITNESS: Directly, no. I mean we are
21 a subsidiary -- I think it's fair to say we are a
22 subsidiary of the company and they're our parent
23 company.

24 COMMISSIONER: I do agree. That's not a
25 big deal to me.

1 My question, however, with respect to that
2 fact is -- does your employment give you at least
3 some idea of the general business practices of SCI
4 with respect to due diligence?

5 THE WITNESS: I'm not involved in
6 acquisitions, so I wouldn't know what their process
7 is in regards to that.

8 COMMISSIONER OKUDA: Do you know of any
9 instance in all your years working for any company
10 that might have been owned by SCI where SCI purchased
11 an asset, big or small, without doing due diligence?

12 THE WITNESS: I'm sure they did due
13 diligence. I was not involved in it.

14 COMMISSIONER OKUDA: And if SCI did due
15 diligence before it purchased the interest of
16 Hawaiian Memorial Park, they would have known that
17 this land, which is subject to this Land Use
18 Petition, was designated Conservation, correct?

19 THE WITNESS: I'm not the person to ask
20 that question to.

21 COMMISSIONER OKUDA: Do you know of any
22 evidence or anything that you know about which
23 indicates that SCI did not know that the land was
24 designated Conservation?

25 THE WITNESS: Again, I'm not the person to

1 ask that question. I wasn't involved in the process.

2 COMMISSIONER OKUDA: Did anyone ever tell
3 you anyone, whether connected with SCI Hawaiian
4 Memorial Park or outside the company, did anyone ever
5 tell you that they were surprised to find out that
6 the land which is the subject of this Petition was
7 designated Conservation?

8 THE WITNESS: No.

9 COMMISSIONER OKUDA: Now, when did SCI ever
10 do anything to attempt to find out what historic
11 sites or flora or fauna or anything like that existed
12 on the parcel that we're dealing with here, the
13 Conservation designated land?

14 THE WITNESS: Well, I think everyone knew
15 Kawa'ewa'e Heiau was on the property. I think that
16 was probably the most notable archaeological feature
17 on the property.

18 But in regards to any due diligence on the
19 actual parcel, that would have been done through the
20 studies that we did in 2008, -9 prior to going to the
21 Land Use Commission. That's probably when I would
22 say they found out most of the information about the
23 property.

24 COMMISSIONER OKUDA: What was your
25 understanding of the significance or importance of

1 Kawa'ewa'e Heiau?

2 THE WITNESS: I'm not an expert in Hawaiian
3 cultural sites, and in regards to anything with that,
4 I would defer to Dr. Trisha Watson.

5 COMMISSIONER OKUDA: I understand that.
6 But I want to ask you as President of Hawaiian
7 Memorial Park, did you understand that that heiau had
8 some type of cultural significance or historic
9 significance?

10 THE WITNESS: I'll speak from a personal
11 basis on this on how important it is for me to
12 protect it. I'm doing everything possible in my
13 capacity to ensure that those sites get protected.
14 That's just my personal feeling in regards to that
15 site. And I feel the same way about all the sites
16 that have been identified in the cultural preserve.

17 COMMISSIONER OKUDA: Have you ever heard,
18 during your time as company president, the word
19 "stewardship" in connection with the phrase
20 "stewardship of land" or "land stewardship" or
21 "stewardship of natural resources"?

22 The word "stewardship", have you heard that
23 word used?

24 THE WITNESS: I've heard the word used,
25 yes, sir.

1 COMMISSIONER OKUDA: Tell me in your own
2 words what the word means to be a steward of the
3 land.

4 THE WITNESS: I would say there's an
5 accountability and responsibility to that.

6 COMMISSIONER OKUDA: With respect to the
7 heiau, what has Hawaiian Memorial Park done since the
8 time it became a solely-owned subsidiary of SCI with
9 respect to stewardship or protection of the heiau?

10 THE WITNESS: So I know that in the mid to
11 late 2000s that it was being primarily taken care of
12 by a family called the Campbell family. We allowed
13 them -- they were doing that in regards to the
14 property.

15 For a long period of time, myself and one
16 of the other managers were going out to the site and
17 trying to clear it ourselves, and it just became too
18 much for us to take care of, too much work for two of
19 us to be out there doing that.

20 But this was things that we took on
21 personally to do that with. Anyone that wants to go
22 on the property, or if anyone wanted to take
23 stewardship of that property -- in fact, right now I
24 think that what we are really hoping for is that with
25 approval of this project, we come into agreement with

1 the entity that will take stewardship of that and get
2 it protected, but as far as ongoing stewardship of
3 Kawa'ewa'e Heiau, no there has not been a formal plan
4 within my company to do that, no.

5 COMMISSIONER OKUDA: Did your company have
6 any formal plan to protect Kawa'ewa'e Heiau?

7 THE WITNESS: No.

8 COMMISSIONER OKUDA: Did your company
9 believe it had an obligation to protect or preserve
10 Kawa'ewa'e Heiau?

11 THE WITNESS: I can't answer that question.
12 You're asking me to speak for other people.

13 COMMISSIONER OKUDA: Did you ever hear from
14 anyone connected with Hawaiian Memorial Park or SCI a
15 statement stating that the person believed that SCI
16 or Hawaiian Memorial Park had an obligation to
17 protect Kawa'ewa'e Heiau?

18 THE WITNESS: I never had anyone tell me
19 that.

20 COMMISSIONER OKUDA: Did anyone connected
21 with Hawaiian Memorial Park or SCI ever state that
22 they or it felt they had an obligation to take care
23 of the other historic sites within the Conservation
24 District proper?

25 THE WITNESS: So, Mr. Okuda, would it be

1 appropriate for someone like myself were up there to
2 start protecting Hawaiian archaeological sites
3 without a proper entity to be overseeing that when
4 you're dealing with artifacts?

5 I think that that's what we are trying to
6 do at this point in time is come up with a plan that
7 will be addressed later by Dr. Trisha Watson, a
8 preservation plan. I would defer to her on that.

9 COMMISSIONER OKUDA: Let me respond to
10 that, because this is not me trying to hide the ball
11 or trick you or anything like that. But the reason
12 why I'm asking these questions is where there is not
13 a clearly documented agreement with terms and
14 conditions enforceable in the court, to some extent
15 we have to rely on the good faith of the parties.

16 And to determine good faith or intention of
17 the parties, at least for me personally, I kind of go
18 back to the old adage which is actions speak louder
19 than words.

20 I'm not suggesting that there is a legal
21 obligation to do things. I'm just asking whether or
22 not anyone felt that way, because for me anyway --
23 not speaking for any of the other Commissioners --
24 for me that will go to making a decision with respect
25 to credibility and whether or not representations

1 that are made are going to be carried out or not. So
2 that's the reason why I'm asking the questions.

3 Let me ask you this. So as of this date,
4 the Hawaiian Islands Land Trust has not agreed to be
5 the holder of the conservation easement, correct?

6 THE WITNESS: So to answer your question,
7 we reached out to Hawaiian Islands Land Trust awhile
8 back. I personally had conversations with them, but
9 in all fairness to them, they have their rules, and
10 they were unable to entertain a full commitment to us
11 at that time.

12 But the letter that you referenced at
13 hearing, our last hearing that was addressed to me
14 from Kawika Burgess was to show that we have good
15 faith intent all through that conservation easement.

16 And as I said earlier with Office of
17 Planning, we expect that to be a condition on
18 approval.

19 COMMISSIONER OKUDA: Okay. But not only do
20 you not have a specific agreement with the Hawaiian
21 Islands Land Trust at this time, but the specific
22 terms and conditions of the conservation easement
23 have not been agreed to, correct?

24 THE WITNESS: And, again, I go back to my
25 original statement, you can't enter into those kind

1 of conversations until after approval.

2 CHAIRPERSON SCHEUER: Mr. Okuda, if I may.
3 And I really try to not interfere with my fellow
4 Commissioners' questioning, but if there is certain
5 kind of terms and conditions that you're interested
6 in seeing placed as a condition, if the Land Use
7 Commission was to act favorably upon this request,
8 maybe the question you have for Mr. Morford right now
9 could be directed towards would you be inclined to
10 accept this kind of condition or rather that kind of
11 condition.

12 I think through your earlier questioning of
13 Mr. Ezer, and in a number of places in this docket,
14 you and others well established that HILT for its own
15 reasons never entered into agreement, and will not do
16 so unless the LUC acts favorably.

17 COMMISSIONER OKUDA: Okay, you're probably
18 right, I'm beating a horse that shouldn't even be
19 right now.

20 CHAIRPERSON SCHEUER: At the risk of
21 stepping across too much, if there is specific things
22 you would like to see, would the Petitioner be
23 willing to accept defined acreage, or defined
24 endowment, or defined set of practices, I think those
25 would be good and productive questions to have.

1 COMMISSIONER OKUDA: Mr. Morford, maybe I
2 can ask this question.

3 You heard the testimony previously given
4 about a foreseeable risk of serious bodily injury or
5 even death from rockfall in the area where the
6 cultural preserve is intended to be placed, correct?

7 THE WITNESS: That is correct.

8 COMMISSIONER OKUDA: Would Hawaiian
9 Memorial Park and SCI be willing to indemnify, defend
10 and hold harmless whoever is going to manage the
11 cultural preserve so that if someone gets hurt or
12 killed in that area, for example, the Koolaupoko
13 Hawaiian Civic Club won't be the one that's going to
14 have to pay thousands of dollars to protect itself
15 and defend itself, and maybe go bankrupt, but SCI and
16 Hawaiian Memorial Park will step in and protect,
17 defend and indemnify, for example, the Koolaupoko
18 Hawaiian Civic Club from any claims, defenses or
19 lawsuits?

20 THE WITNESS: I think that's a very good
21 question. And I believe that we can work with the
22 entities and come up with an agreement that's
23 acceptable to all parties.

24 But, again, when we get into the
25 preservation plan and the cultural preserve, I would

1 like to defer to Dr. Trisha Watson.

2 COMMISSIONER OKUDA: Well, whether to
3 indemnify, defend, hold harmless and protect the
4 manager of the cultural preserve from lawsuits,
5 claims, and potential court judgments, that's a
6 business decision for Hawaiian Memorial Park and SCI
7 to make, correct?

8 THE WITNESS: That would be correct, yes.

9 COMMISSIONER OKUDA: So my question to you
10 as the person who is head of the corporation is, will
11 Hawaiian Memorial Park and SCI be willing to
12 indemnify, defend and hold harmless, for example, the
13 Koolaupoko Hawaiian Civic Club if it were to be the
14 manager of the cultural preserve?

15 THE WITNESS: We will take steps to manage
16 the liability, and make sure that there's no
17 liability attached to the entities.

18 COMMISSIONER OKUDA: So the answer is yes?

19 THE WITNESS: Yes, sir.

20 COMMISSIONER OKUDA: And if, for example,
21 the Hawaiian Islands Land Trust, who is the holder of
22 the conservation easement, would Hawaiian Memorial
23 Park and SCI both be willing to give the same type of
24 indemnification and promise to defend and hold
25 harmless HILT if in fact HILT ends up being the

1 holder of the conservation easement?

2 THE WITNESS: I believe we --

3 MR. MATSUBARA: Commissioner Okuda, I don't
4 mean to interrupt you, but what you're talking about
5 are steps that will incur in the future. It involves
6 discussions with whoever will manage the conservation
7 easement. It will involve whoever manages the park.

8 It involves legal issues, and Mr. Morford
9 is not an attorney, so I think at this point in time
10 raising those issues and getting a commitment may not
11 be quite appropriate.

12 COMMISSIONER OKUDA: Well, if the answer is
13 "I can't give a commitment", then that can be the
14 answer. I just want to know whether it's a "yes", a
15 "no", or "I don't know".

16 So to be fair to Mr. Morford, let me back
17 up a bit and reask the question. I don't want to
18 force or put words in anyone's mouth.

19 I mean with respect to the manager of the
20 cultural preserve, can you tell us "yes", "no" or you
21 don't know whether or not SCI and HMP will defend,
22 indemnify and hold the manager of the cultural park
23 harmless from any claims resulting from, for example,
24 rockfall?

25 THE WITNESS: Well, let me take a fourth

1 option, and we are willing to entertain that, but
2 again, I do agree I'm not an attorney, and this is
3 something that I think that needs to have discussion.

4 COMMISSIONER OKUDA: So you really can't
5 tell us definitively one way or another right now,
6 with respect to my question, whether it's the manager
7 of the cultural preserve or the holder of the
8 conservation easement, correct?

9 THE WITNESS: At this point in time,
10 Commissioner Okuda, that is correct.

11 COMMISSIONER OKUDA: With respect to the
12 cultural preserve, will the appointments or naming
13 of, let's say, for example, the Koolaupoko Hawaiian
14 Civic Club, if they still want to do this as manager
15 of the cultural preserve, will that be revocable or
16 irrevocable?

17 THE WITNESS: It's -- I'm going to defer to
18 Trisha Watson, but as far as our company is
19 concerned, it's in perpetuity with them. So we have
20 no reason to withdraw it.

21 COMMISSIONER OKUDA: With respect to
22 activities which will take place within the cultural
23 preserve, will the decisions of the manager of the
24 cultural preserve be subject to the approval or veto
25 of anyone else, or will the manager of the cultural

1 preserve be able to make decisions in its sole and
2 unfettered discretion?

3 THE WITNESS: We will be able to make
4 decisions based on their discretion.

5 COMMISSIONER OKUDA: So Hawaiian Memorial
6 Park would have no veto power over the decisions made
7 by the manager of the cultural preserve, correct?

8 THE WITNESS: That is correct.

9 COMMISSIONER OKUDA: If, for example, the
10 manager of the cultural preserve determines that the
11 actions or inactions of Hawaiian Memorial Park is
12 harming the damselfly habitat, will the manager of
13 the cultural preserve have a right to sue Hawaiian
14 Memorial Park?

15 Would there be any restriction on the
16 manager's right to bring a legal action to enforce
17 protection of the damselfly?

18 MR. MATSUBARA: Again, Commissioner Okuda,
19 you're asking for a legal conclusion from a lay
20 person. So I have some concern in regard to the
21 appropriateness of that question.

22 CHAIRPERSON SCHEUER: I'm going to just in
23 terms of managing the meeting, Commissioner Okuda, I
24 have a sense that you have more than we are going to
25 be able to get through today with Mr. Morford; is

1 that correct?

2 COMMISSIONER OKUDA: Yes. But if we
3 continue -- if we recess at this point in time, I
4 promise I'll look through my questions and try to cut
5 back on them.

6 CHAIRPERSON SCHEUER: Again, I'm not at
7 all -- you or any other Commissioner should feel
8 absolutely free to ask all the questions that you
9 need to ask to be comfortable with this docket, but I
10 do have to manage the time. We have been going a
11 full hour again.

12 I know I'm approaching the end of when I'm
13 most fully alert and effective to engage with this.
14 If it's okay with all the Parties, my suggestion
15 would be that we take this as a break to recess and
16 reconvene the proceedings via "ZOOM" tomorrow at
17 9:00 a.m. via the same link.

18 Any concerns or objections to proceeding in
19 that manner?

20 MR. MATSUBARA: No objection, Mr. Chairman.

21 CHAIRPERSON SCHEUER: Thank you, Mr.
22 Matsubara. County?

23 MR. PANG: No objections.

24 CHAIRPERSON SCHEUER: OP?

25 MS. APUNA: No objections, but we did have

1 a question as far as Petitioner's witnesses tomorrow
2 so we can get an idea of when our witness would
3 possibly be on.

4 CHAIRPERSON SCHEUER: I'll address that in
5 a moment.

6 Intervenor, any problem with recessing
7 today after dealing with housekeeping?

8 MR. YOSHIMORI: No, thank you.

9 CHAIRPERSON SCHEUER: So, Mr. Matsubara,
10 would you kind of overview for us what you would see
11 us doing tomorrow?

12 MR. MATSUBARA: I'll give you a list.

13 There's ten more witnesses after Mr.
14 Morford.

15 We have Jami Hirota, the civil engineer.

16 We have Steven Montgomery, entomologist.

17 We have Steven Spengler, environmental
18 hydrologist.

19 And we have Susan Burr, with AECOS, talking
20 about environmental science, wetlands and waters of
21 jurisdictional limits.

22 And we have Reginald David of Rana
23 Biological talking about biology.

24 Maya LeGrande talking about botany.

25 Tod Beiler, noise assessment.

1 Matt Nakamoto, traffic engineering.

2 Rosanna Thurman, archeology.

3 Trisha Watson, cultural assessment.

4 Maybe some rebuttal witnesses we have, but
5 I think those would take off tomorrow.

6 Were you able to get that down or did I go
7 too fast?

8 MS. APUNA: That's perfect, thank you.

9 CHAIRPERSON SCHEUER: I think that sounds
10 like a very full day for tomorrow. We start off
11 tomorrow at 9:00 a.m. with continuing questioning of
12 Mr. Morford.

13 Is there any other further comments from
14 the Commission or questions on procedures at this
15 time? If there's not I would like to thank -- oh,
16 sorry. Was there anything?

17 If not I would like to thank all of the
18 Commissioners, the staff, and the Parties for your
19 cooperation and work today, and doing this unusual --
20 Deputy Attorney General, he's waving to us, yes, we
21 acknowledge you as well -- for going through this
22 most unusual DBA process.

23 I'm glad we are able to make progress and
24 conclude public witnesses. I will now declare that
25 we are in recess now until 9:00 a.m. tomorrow.

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CERTIFICATE.

STATE OF HAWAII)
) SS.
COUNTY OF HONOLULU)

I, JEAN MARIE McMANUS, do hereby certify:

That on June 9, 2020, 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 9th day of June, 2020, in Honolulu, Hawaii.

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