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STATE OF HAWAII

LAND USE COMMISSION

Hearing held on February 16, 2022

Commencing at 9:07 a.m.

Held via Zoom Interactive Conference Technology

I. CALL TO ORDER

II. ADOPTION OF MINUTES

January 19-20-2022 Minutes

III. TENTATIVE MEETING SCHEDULE

IV. ACTION-

A19-809 Lanai Resorts, LLC dba Pulama Lanai (Maui)

To Consider the Acceptance of Petitioner's Final Environmental Assessment and Motion to Issue a Finding of No Significant Impact relating to the Petition to Amend the Land Use District Boundaries of certain land situated at Lanai City, Island of Lanai, consisting of approximately 200 acres from the Agricultural District to the Urban District. Tax Map key No. (2)4-9-02:01 (por.).

V. RECESS

BEFORE:

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APPEARANCES BY VIDEOCONFERENCE

COMMISSIONERS PRESENT:

- Jonathan Scheuer, Chair
- Dan Giovanni
- Nancy Cabral
- Gary Okuda
- Edmund Aczon
- Arnold Wong

COMMISSIONERS EXCUSED:

- Dawn N.S. Chang
- Lee Ohigashi

STAFF PRESENT:

- Daniel Orodener, Executive Officer
- Scott Derrickson, Chief Planner
- Riley Hakoda, Staff Planner
- Natasha Quinones, Chief Clerk
- Julie China, Esq. Deputy Attorney General

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APPEARANCES BY VIDEOCONFERENCE

PETITIONER:

Calvert Chipchase, Esq. for Pulama Lanai

Christopher Goodin, Esq. for Pulama Lanai

COUNTY OF MAUI:

Michael Hopper, Esq., Deputy Corporation Counsel,
Maui County Planning Department

Jordan Hart, Deputy Planning Director

Kurt Wollenhaupt, Planner

OFFICE OF PLANNING AND SUSTAINABLE DEVELOPMENT:

Bryan Yee, Esq., Deputy Attorney General

Rodney Funakoshi, Land Use Administrator

Lorene Maki, Planner

1 **CHAIR SCHEUER:** It's 9:07 a.m. Aloha mai
2 kakou and good morning. This is the February 16th,
3 2022, Land Use Commission meeting, which is being
4 held using interactive conference technology linking
5 videoconference participants and other interested
6 individuals of the public via the Zoom Internet
7 conferencing program to comply with state and county
8 official operational directives during the ongoing
9 COVID-19 pandemic. Members of the public are able to
10 view the meeting via the Zoom webinar platform.

11 All meeting participants, I'd like to urge
12 you to speak slowly, clearly, and directly into a
13 microphone. We now generate the transcripts of these
14 hearings directly from the Zoom recording, so it is
15 helpful to have you state your name prior to
16 speaking.

17 Also, keep in mind that because this is
18 being recorded, your continued participation is your
19 implied consent to be part of the public record of
20 this event. If you do not wish to be part of the
21 public record, you should leave the meeting now.

22 This Zoom conferencing technology allows
23 all the parties and the commissioners access to this
24 meeting via our own individual digital devices.
25 Because of that and often due to matters entirely

1 outside of our control, occasional disruptions to
2 connectivity may occur. If this happens, please let
3 us know, and please be patient as we try to restore
4 audiovisual signals in order to be able to conduct
5 business during the pandemic.

6 For the members of the public who may wish
7 to testify on any matter on which public testimony
8 is being taken and you are calling in by phone, when
9 I say that you can raise your hand, you can use the
10 key sequence *9, and then also, the key sequence *6
11 to ask to be unmuted. If you are accessing this via
12 Zoom software, you use the Raise Your Hand function.
13 I will repeat these instructions at the time that we
14 take public testimony.

15 We will take breaks from time to time,
16 approximately 10 minutes of the hour.

17 My name is Jonathan Likeke Scheuer. I have
18 the honor and pleasure of serving as the Land Use
19 Commission chair. Along with me, Commissioner Arnold
20 Wong, Commissioner Gary Okuda, Commissioner Edmund
21 Aczon, and our staff, our executive officer Daniel
22 Orodenker, our chief planner Scott Derrickson, our
23 staff planner Riley Hakoda, and our chief Clerk
24 Natasha Quinones, along with our deputy attorney
25 general Julie China, are all on the island of O'ahu.

1 Commissioner Nancy Cabral is on Hawaii
2 Island. Commissioner Dan Giovanni is on Kauai.
3 Commissioners Dawn Chang and Lee Ohigashi are
4 excused from today's proceedings.

5 Our first order of business is adoption of
6 the January 19-20, 2022, minutes.

7 Ms. Quinones, has there been any written
8 testimony submitted on this matter?

9 **MS. QUINONES:** No, Chair. Hi. Good
10 morning. This is Natasha. There was no written -- no
11 testimony received on the minutes.

12 **CHAIR SCHEUER:** Okay. Is there any member
13 of the public attending this meeting who wishes to
14 testify solely on the adoption of the minutes from
15 our January 19th and 20th meeting? If so, use the
16 Raise Your Hand function.

17 Seeing none, are there any questions or
18 comments on the minutes from the commission?

19 Commissioner Okuda?

20 **COMMISSIONER OKUDA:** Thank you very much,
21 Mr. Chair. Before I forget, I would like to recuse
22 myself on the second minutes, which dealt with the
23 IAL petition from the City and County of Honolulu. I
24 was not present, and I had recused myself from that
25 matter. Thank you.

1 **CHAIR SCHEUER:** Okay. Any other questions
2 or comments? If not, is there a motion to adopt?

3 **COMMISSIONER WONG:** Chair, this is
4 Commissioner Wong.

5 **CHAIR SCHEUER:** Commissioner?

6 **COMMISSIONER WONG:** I move to adopt.

7 **CHAIR SCHEUER:** Is there a second?

8 **COMMISSIONER GIOVANNI:** Commissioner
9 Giovanni moves to adopt. Second the motion.

10 **CHAIR SCHEUER:** We have a motion from
11 Commissioner Wong and a second from Commissioner
12 Giovanni. Any discussion? Seeing none, Mr.
13 Orodenker, please do a roll call.

14 **MR. ORODENKER:** Mr. Chair, the motion is
15 to adopt the minutes.

16 **MR. ORODENKER:** Commissioner Wong?

17 **COMMISSIONER WONG:** Aye.

18 **MR. ORODENKER:** Commissioner Giovanni?

19 **COMMISSIONER GIOVANNI:** Aye.

20 **MR. ORODENKER:** Commissioner Cabral?

21 **COMMISSIONER CABRAL:** I will abstain, as I
22 was not present at those meetings.

23 **MR. ORODENKER:** Commissioner Aczon?

24 **COMMISSIONER ACZON:** Aye.

25 **MR. ORODENKER:** Commissioner Okuda?

1 **COMMISSIONER OKUDA:** Aye on the first
2 minutes. Abstain on the second. Thank you.

3 **MR. ORODENKER:** Chair Scheuer?

4 **CHAIR SCHEUER:** Aye.

5 **MR. ORODENKER:** Chair, minutes from the
6 first meeting are adopted. The minutes from the
7 second meeting have (inaudible).

8 **CHAIR SCHEUER:** Sorry. You're breaking up,
9 Mr. Orodenker.

10 **MR. ORODENKER:** Thank you, Chair. I'm
11 sorry. We have five affirmative votes on the minutes
12 of the first meeting. We don't have five affirmative
13 votes on the minutes of the second meeting, so we
14 have to try again at a later date for that one.

15 **CHAIR SCHEUER:** Okay. Thank you very much.
16 We'll try again at our next meeting. Mr. Orodenker,
17 will you please continue with the next agenda item,
18 our tentative meeting schedule?

19 **MR. ORODENKER:** Mr. Chair, I kind of
20 scheduled -- tomorrow we will be meeting once again
21 by Zoom here to handle this Pulama Lanai Miki Basin
22 matter if that matter is not completed today. We
23 will also be adopting the order in New Century
24 Public Charter School special permit matter
25 tomorrow.

1 The meetings on March 9th and 10th have
2 been continued. We are still holding March 9th open
3 in case (inaudible), so I would ask the
4 commissioners to observe that.

5 March 23rd and 24th. March 23rd, we will
6 be picking up the KS Waiawa matter right here on
7 O'ahu, and on March 24th, we will be taking up the
8 FEIS acceptance on (inaudible).

9 I would note for the commissioners and for
10 the public that should the governor's emergency
11 proclamation expire in February, as we anticipate it
12 will, the commission will be traveling to those
13 meetings, and we will also be allowing participation
14 by Zoom. So we will be holding, for lack of a better
15 word, a hybrid meeting. However, most of the
16 commissioners will be traveling to the various
17 islands.

18 **CHAIR SCHEUER:** That word was traveling?
19 I'm not familiar with it, Mr. Orodenker.

20 **MR. ORODENKER:** I haven't seen a COVID
21 check.

22 **CHAIR SCHEUER:** I am so fully vaccinated,
23 I now have 5G, I assure you.

24 Any questions, Commissioners, for Mr.
25 Orodenker?

1 **MR. ORODENKER:** I was going to continue
2 with April.

3 **CHAIR SCHEUER:** Okay.

4 **MR. ORODENKER:** In April we will also be
5 holding hearings. On April 13th, we will be on O'ahu
6 for the KS Waiawa matter. April 14th, we will be on
7 the Big Island for the Church-Hildal. April 27th, we
8 will be on Kauai for Kekaha Agriculture matter.
9 April 28th is also scheduled for a hearing. We do
10 not have a specific docket for that date yet,
11 though. We would caution the commissioners to
12 entertain that date in case we do decide to.

13 On May 11th, we will be having a
14 presentation by our chair, who graciously agreed to
15 give us a presentation on the public trust doctrine.
16 And we will be recording that for posterity.

17 May 12th, 25th, and 26th are kind of open,
18 but I would also note for the commissioners that
19 come June -- that by June, since we will be losing
20 our chair and our vice chair, we will have to
21 undertake an election of officers. So,
22 Commissioners, keep that in mind.

23 Thank you, Mr. Chair.

24 **CHAIR SCHEUER:** Thank you, Mr. Orodenker.

25 Commissioners, any questions for Mr.

1 Orodenker? Seeing none.

2 Our next agenda item is Docket No. A19-
3 809, Pulama Lanai Miki Basin Industrial Park, Maui
4 County, to consider the acceptance of Petitioner's
5 Final Environmental Assessment and a Motion to Issue
6 a Finding of No Significant Impact Relating to the
7 Petition to Amend the Land Use District Boundaries
8 of certain land situated at Lanai City, Island of
9 Lanai, consisting of approximately 200 acres from
10 the Agricultural District to the Urban District. Tax
11 Map Key No. (2)4-9-02, a portion of Lot 1.

12 Will the parties please identify
13 yourselves for the record, starting with the
14 petitioner?

15 **MR. CHIPCHASE:** Good morning, Chair,
16 Commissioners. Calvert Chipchase and Chris Goodin
17 for Pulama Lanai.

18 **CHAIR SCHEUER:** Welcome.

19 **MR. HOPPER:** Good morning, Chair, and Land
20 Use commissioners. Deputy Corporation Counsel
21 Michael Hopper, representing the Maui County
22 Department of Planning. With me are Deputy Planning
23 Director Jordan Hart and Planner Kurt Wollenhaupt.

24 **CHAIR SCHEUER:** Nice to see you, Michael.

25 **MR. HOPPER:** Good morning, Chair.

1 **MR. YEE:** Good morning. Deputy Attorney
2 General Brian Yee on behalf of the Office of
3 Planning and Sustainable Development. With me is
4 Rodney Funakoshi and Lorene Maki from OPSD.

5 **CHAIR SCHEUER:** Okay. Before we begin or
6 continue further, let me update the record.

7 On November 3rd, 2021, the Land Use
8 Commission received an email notification from
9 Munekiyo Hiraga that a second draft EA package had
10 been submitted to the OEQC, or the Office of
11 Environmental Quality Control, website and was
12 available.

13 On November 17th, petitioner filed a
14 second draft EA, list of files, and a CD. On
15 November 24th, the commission received the
16 petitioner's attachments, a second draft EA letter
17 to the reviewing agency, and a second draft EA
18 agency distribution list.

19 From December 9th through January 7th of
20 this year, the commission received comments to the
21 second draft environmental assessment filing: the
22 Maui County Department of Transportation, the Maui
23 County Department of Planning, the United States
24 Fish & Wildlife Service, Maui County Department of
25 Water Supply, comments from the Department of Land

1 and Natural Resources, comments from Sally Kay along
2 with questions, communication from the state of
3 Hawaii Department of Transportation, from the
4 University of Hawaii at Manoa, from Maui County
5 Department of Parks and Recreation, from the Maui
6 County Police Department, from David Tanoue, the
7 vice president of the R.M. Towill Corporation.

8 On January 11th, we received the Office of
9 Planning and Sustainable Development, OPSD's
10 comments to the second draft EA. On February 1st, we
11 received comments from the state of Hawaii
12 Commission on Water Resources Management. On
13 February 4th, we received the Petitioner's Motion to
14 Issue a Notice of a Finding of No Significant
15 Impact.

16 On February 7th, we emailed -- mailed and
17 emailed the meeting agenda for the February 16th and
18 17th meetings to the parties and to our statewide
19 and county lists. Also on that day, the commission
20 received OPSD's response to the motion for a FONSI,
21 and the petitioner's flash drive with the final
22 environmental assessment for the Miki Basin project.

23 On February 11th, the County of Maui filed
24 a transmittal -- a position statement and a
25 certificate of service.

1 Having updated the record, let me go over
2 our procedures for today. First, I will ask
3 petitioner to describe their agreement with the
4 commission's policy governing reimbursement of
5 hearing expenses.

6 I will then recognize any additional
7 written testimony that has been submitted in this
8 matter, working with the staff to do so.

9 I will then ask to see if there's any
10 public testimony on this matter using either *9 if
11 you are calling in by phone or Raise Your Hand
12 functions. I will admit people one by one, swear
13 them in, offer you the opportunity to give
14 testimony, and ask you to remain to be questioned if
15 there are any questions by any of the parties and
16 the commission.

17 Following the conclusion of public
18 testimony, I will ask the petitioner, Pulama Lanai,
19 to make its presentation and receive any comments
20 from the commission. They will be followed by the
21 same process for the County of Maui and OPSD.

22 I will then give the opportunity to Pulama
23 Lanai to have any rebuttal to any comments that have
24 been made. And after that, the commission will ask
25 any final questions and move into final

1 deliberations. As I stated before, we will try to
2 take breaks, approximately 10 minutes, in the hour.

3 Parties, are there any questions on our
4 procedures for today, starting with Mr. Chipchase?

5 **MR. CHIPCHASE:** None, Chair.

6 **MR. HOPPER:** No, Chair.

7 **MR. YEE:** No questions.

8 **CHAIR SCHEUER:** Okay. Folks, are there any
9 disclosures that people wish to make regarding this
10 docket? Seeing none.

11 Mr. Chipchase, have you reviewed HAR 15-
12 15-45.1 with regard to the reimbursement of hearing
13 expenses? And, if so, please state your client's
14 position on the matter.

15 **MR. CHIPCHASE:** Yes, Chair. Reviewed,
16 acknowledged, and accepted.

17 **CHAIR SCHEUER:** Thank you very much. We'll
18 move on to testimony.

19 In addition to the list of testifiers who
20 I've already noted, Ms. Quinones, has there been
21 additional written testimony received by the Land
22 Use Commission?

23 **MS. QUINONES:** Yes, Chair. We received
24 testimony from Nelinia Cabiles, managing editor of
25 Lanai Today. And I believe Sally Kay has signed up

1 to provide oral testimony this morning.

2 **CHAIR SCHEUER:** Okay. I see Ms. Kay's hand
3 was raised. Along with Ms. Kay, if there's any
4 individuals of the public who wish to provide oral
5 testimony, now is the time. I'm going to admit --
6 okay, good. I'm seeing names. Ms. Kay will be
7 followed by Diane Preza and Roger Alconcel.

8 One by one, I will promote you to be a
9 panelist, and when you're promoted to be a panelist,
10 you will now be enabled to turn on your audio and
11 video. I will swear you in. Following being sworn
12 in, you'll have the opportunity to give testimony.

13 So you're in the room, Ms. Kay. If you
14 could enable your audio and video. Okay. You're off
15 mute. That's great. Is it possible to turn on your
16 camera? Do you have the bandwidth? Okay. There you
17 are. Okay.

18 **MS. KAY:** Okay. Good. Good morning, Chair
19 and

20 **CHAIR SCHEUER:** Good morning. I'm going to
21 swear you in first.

22 **MS. KAY:** Yes.

23 **CHAIR SCHEUER:** Okay. Do you swear or
24 affirm the testimony that you're about to give is
25 the truth?

1 **MS. KAY:** I do.

2 **CHAIR SCHEUER:** Okay. Please, name and
3 address for the record, and then proceed with your
4 testimony.

5 **MS. KAY:** Okay. Good morning, Chair and
6 commissioners. My name is Sally Kay. I live at 511
7 Ilima Avenue, Lanai City.

8 Since the issue before the commission is
9 the completeness of the draft FEA and a request for
10 a FONSI finding, I'd like to just point out a few
11 places in the record where responses were either
12 incomplete or nonresponsive for the commission's
13 consideration.

14 With respect to the County of Maui
15 Planning Department's question why the planned solar
16 project could not be placed on existing ag land as
17 allowed by statute, applicant says that 127 acres
18 have been set aside to meet the needs of Docket
19 2015-0389, but the RFP in that docket indicates only
20 73 acres is required. This leaves 54 acres that
21 would be rezoned from ag to urban with no identified
22 use or need.

23 Applicant also says the proposed project's
24 73 acres would fill 95 percent of the renewable
25 energy for the island, so it's not clear how the

1 remaining 54 acres would be needed for the remaining
2 5 percent of the energy left.

3 And applicant admits that if there is a
4 need to accommodate permitted uses, they could be
5 placed in the 127-acre area. That could mean any
6 allowed but as yet unidentified industrial use could
7 be placed there.

8 In any event, saying that co-locating the
9 renewable energy project next to the MECO power
10 plant makes the interconnection costs negligible
11 doesn't respond to the question.

12 Second, (inaudible) request -- made twice
13 -- that the FEA provide a conceptual plan of the
14 projected uses and a schedule of development for
15 each phase. This would seem an easy lay-up, since
16 all the uses identified in the FEA are under
17 applicant's control.

18 Third, applicant stated that full buildout
19 will take 20 years, but then denied it would have to
20 seek incremental LUC approval if development extends
21 beyond 10 years.

22 I'll just close by noting that 200 acres
23 permanently zoned from ag to urban on any other
24 island would probably be a very big deal. And the
25 numerous questions and comments regarding water

1 supply and usage show the commission that water on
2 the only island with a single aquifer is always a
3 major concern.

4 For the applicant to state that it failed
5 to include a water reservation for a 100-acre ag
6 park included in the water usage development plan
7 because there's been no action by the state for 28
8 years to develop it begs the question of why
9 applicant now needs 200 more industrial acres when
10 the initial Miki Basin 20-acre heavy industrial
11 project promised for close to 20 years remains
12 unfilled.

13 Going forward and in light of the recent
14 USGS modeling suggesting Lanai could see a decrease
15 in recharge of up to 55 percent, I would ask the
16 commission to apply strict scrutiny when, as now, so
17 much of the maximum possible uses for the 200 acres
18 remains unknown and when, as here, the party who
19 wants to develop also happens to control the water
20 delivery and supply systems.

21 Mahalo.

22 **CHAIR SCHEUER:** Ms. Kay, on your second
23 point, at least for me, your second brief point, the
24 audio cut out. So could you repeat your -- you said
25 number two.

1 **MS. KAY:** Sure. It doesn't appear that the
2 applicant complied with OPSD's request -- made twice
3 -- that the FEA provide a conceptual plan of the
4 projected uses and a schedule of development.

5 **CHAIR SCHEUER:** Okay.

6 **MS. KAY:** It would seem that would be an
7 easy one, since all of the uses identified in the
8 FEA are under applicant's control.

9 **CHAIR SCHEUER:** Thank you.

10 Questions for the witness, starting with
11 Mr. Chipchase?

12 **MR. CHIPCHASE:** None, Chair.

13 **CHAIR SCHEUER:** Thank you.

14 OPSD -- oh, Maui County, rather.

15 **MR. HOPPER:** No, Chair. Thank you.

16 **CHAIR SCHEUER:** OPSD?

17 **MR. YEE:** No questions.

18 **CHAIR SCHEUER:** Commissioners? Beginning
19 with Commissioner Okuda.

20 **COMMISSIONER OKUDA:** Thank you very much,
21 Mr. Chair.

22 Thank you, Ms. Kay, for taking time to
23 testify here today. We always welcome and value
24 community input. May ask you this? First question.
25 How long have you lived on Lanai?

1 **MS. KAY:** I first came to Lanai in 1974
2 from Honolulu.

3 **COMMISSIONER OKUDA:** Just for the record,
4 if you don't mind, a somewhat personal question. Can
5 you tell me what your occupation was during all those
6 years on Lanai?

7 **MS. KAY:** Oh, I didn't spend all of those
8 years completely on Lanai. My occupation when I left
9 Lanai was as an assistant district attorney.

10 **COMMISSIONER OKUDA:** Okay. What years did
11 you actually live on Lanai up until today? And
12 approximations would be fine.

13 **MS. KAY:** Approximately from 1974 through
14 1981, and then returning every year until 2005, when
15 my family retired and came home.

16 **COMMISSIONER OKUDA:** Is it your
17 understanding, based on your living in the
18 community, that this project is part of a bigger
19 plan that is intended for Lanai? And I'm not asking
20 you, you know, for an expert opinion. I'm just
21 asking based on your living on Lanai, being a member
22 of the community. Is it your impression that this is
23 part of a bigger plan? It's like a piece of a
24 puzzle.

25 **MS. KAY:** I think that's a question better

1 asked by the applicant than myself. We're not --
2 members of the community are not entirely privy to
3 all that's proposed, some of which have been
4 withdrawn. So I'm not sure I would venture an
5 opinion on that.

6 **COMMISSIONER OKUDA:** Okay. Whether you
7 have an opinion on that or not, have you or do you
8 know of the community being consulted in any way,
9 whether regular or not, on any type of master plan
10 that might be under consideration now for the island
11 of Lanai?

12 **MS. KAY:** I'm only aware of the Lanai
13 Community Plan. A master plan I'm not aware of. No.

14 **COMMISSIONER OKUDA:** Have there been any
15 meetings conducted by Pulama Lanai or anyone acting
16 on its behalf where the community has been invited
17 to be told about what might be the future master
18 plan of Lanai?

19 **MS. KAY:** There have been numerous
20 meetings held by Pulama Lanai with the community on
21 a variety of projects. As far as a master plan goes,
22 I'm unaware of any.

23 **COMMISSIONER OKUDA:** Okay. Thank you very
24 much for your testimony.

25 Thank you, Mr. Chair. No further

1 questions.

2 **CHAIR SCHEUER:** Thank you.

3 Commissioners, are there other questions
4 for the witness?

5 I wish clarify, Ms. Kay, you referenced
6 the committee. Are you referring to the Lanai
7 Planning Commission?

8 **MS. KAY:** I'm sorry? What committee?

9 **CHAIR SCHEUER:** You referenced, I believe,
10 that the committee was unaware of something, so --
11 in your responses to Commissioner Okuda.

12 **MS. KAY:** No, no. I'm sorry. No, I'm not
13 speaking -- I'm speaking only for myself. I was
14 responding to the question about a master plan. I'm
15 personally not aware of that.

16 **CHAIR SCHEUER:** Okay. Thank you very much.
17 Commissioners, anything further for Ms.
18 Kay?

19 Thank you very much for your testimony.
20 You've been much appreciated. I'm going to move you
21 to be an attendee again.

22 And then I'm going to admit Diane Preza,
23 followed by Roger Alconcel.

24 Good morning.

25 **MS. PREZA:** Good morning.

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

3 **MS. PREZA:** Yes. I do.

4 **CHAIR SCHEUER:** Okay. Name and address for
5 the record, and then proceed.

6 **MS. PREZA:** Thank you. My name is Diane
7 Preza. I live at 252 Kamoku Place, Lanai City. I'm
8 testifying on behalf of myself. So, aloha, Chair
9 Scheuer and commissioners. I also want to state that
10 I'm born and raised on Lanai, and I am in support of
11 the proposed Miki Basin Industrial Park.

12 Looking at the community's plan, the
13 guiding principles, the first three state that --
14 that diversifying the economy is important to
15 provide opportunities and resiliency for our
16 community. It's important to provide opportunities
17 for keiki to live and work on Lanai and that we
18 should find ways to make -- to grow our economy. And
19 I think that the Miki Industrial Park will offer
20 these opportunities for our economy -- for our
21 people to grow, for the economy to grow.

22 People will be allowed to be able to
23 operate businesses in an appropriate place. Lanai
24 folks are always talking about looking for
25 commercial space, and right now there is not really

1 any available. So I can share with you a few
2 examples of what I hear for myself living in this
3 community.

4 So as you know, we have a great
5 overpopulation of axis deer, and there have been
6 talks in the community about a slaughterhouse to
7 help with the economy by, you know, exporting
8 venison or selling it on-island. There's talks of
9 that, and so Miki would be a great place to, you
10 know, have something like that.

11 We lack automotive repair shops here, so
12 if your car gets hit by a deer or, heaven forbid,
13 anything else, you would have to send things off-
14 island. So right now, we don't have any alternatives
15 here, not really.

16 I've heard the need for storage
17 facilities. Our permanent vet officer right now, the
18 vet is here on-island today. He has a little kind of
19 a mobile van where he can do minor surgeries, and he
20 services a lot of people here and pets, so. But
21 again, he only comes twice a month, and then he has
22 to park his van in a parking lot, and it's always
23 packed with people or with animals and residents
24 from the island coming to see him.

25 So I heard next month he cannot come

1 because the van has to be taken off-island. So
2 that's one month, no vet services. And if you're a
3 pet owner, it can be really devastating, so. But
4 then this goes on and on as to why Miki would be a
5 really good place for an industrial park, so.

6 I also like the idea of Miki being the
7 site of a renewable energy project. So right now on
8 Lanai, we pay about \$6 a gallon for gas, so the
9 reliance on fossil fuel is just not sustainable. And
10 the location of Miki outside of town is a perfect
11 place for this project.

12 So in conclusion, our community is always
13 searching for ways to be responsively self-
14 sustaining, and I think the Miki project will help
15 us to do that. And that's all. Mahalo for your time.

16 **CHAIR SCHEUER:** Thank you very much.

17 Questions for the witness? Mr. Chipchase?

18 **MR. CHIPCHASE:** None, Chair.

19 **MR. HOPPER:** No questions, Chair. Thank
20 you.

21 **MR. YEE:** No questions, Chair. Thank you.

22 **CHAIR SCHEUER:** Commissioners?

23 Ms. Preza, thank you for your testimony.
24 Your testimony was in favor of the project overall.
25 You understand that today we're not actually

1 discussing the merits of the projects. We're
2 actually on discussing whether or not the
3 environmental assessment is adequate.

4 **MS. PREZA:** Thank you.

5 **CHAIR SCHEUER:** You understand that's what
6 we're up to today?

7 **MS. PREZA:** Yes. Thank you.

8 **CHAIR SCHEUER:** Okay. Did you have any
9 specific comments that you want to make about your
10 belief in the adequacy or inadequacy of the
11 environmental assessment?

12 **MS. PREZA:** No, thank you.

13 **CHAIR SCHEUER:** Okay. Thank you very much
14 for your testimony. We very much appreciate it.
15 We're going to move you to be an attendee and admit
16 Roger Alconcel.

17 Mr. Alconcel, you can enable your audio.
18 There you are. Aloha. Do you swear or affirm the
19 testimony you're about to give is the truth?

20 **MR. ALCONCEL:** Yes. I do.

21 **CHAIR SCHEUER:** Okay. Thanks. Please, name
22 and address for the record, and then proceed.

23 **MR. ALCONCEL:** Roger Alconcel. Address is
24 1382 Lanai Avenue. I've been on the island for,
25 like, 10 years now. I'm, you know, born and raised

1 here, but I lived on the mainland for a bit. But I
2 am in support of this project for the environmental
3 part of the Miki Basin.

4 The reason why I'm in support is I believe
5 that Pulama is planning to use this area as
6 renewable energy. Electricity on-island is very
7 expensive, and we rely on diesel. I just remember
8 when I was in the mainland, you know, Montana, and
9 my bill was maybe around, like, \$60. And now it's,
10 like, close to \$300, and I'm, like, that's a lot of
11 money that I have to spend.

12 But importantly, I think it's just good
13 for the environment. Just I'm hoping this project
14 for -- this will move forward.

15 And also, on Lanai the project of Miki
16 Basin is also important because it's also storage
17 space, like Diane alluded to. Storage space on Lanai
18 is very, very hard to find. And I've been going to
19 the beach. Wherever I lie, I can see people putting
20 trash or storage space, because they don't really
21 have space to put it. And it's hurting the
22 environment.

23 If I go down to Keomuku area and I can see
24 a sofa there, sometimes they put whatever because I
25 think they just don't have nowhere to store it. But

1 that's part of this project, and also, I trust that
2 the environmental assessment is accurate and in
3 support of this project. That's all. Thank you.

4 **CHAIR SCHEUER:** Mahalo.

5 Questions for the witness, Pulama?

6 **MR. CHIPCHASE:** No, Chair. Thank you.

7 **CHAIR SCHEUER:** Maui County?

8 **MR. HOPPER:** No, Chair. Thank you.

9 **CHAIR SCHEUER:** OPSD?

10 **MR. YEE:** No questions. Thank you.

11 **CHAIR SCHEUER:** Commissioners? Seeing
12 none.

13 Thank you very much for your testimony.
14 Appreciate it very much.

15 Are there any other individuals of the
16 public wishing to testify in this matter? If so,
17 please raise your hand using your Raise Your Hand
18 function. Admitting Tamara Paltin.

19 Aloha, councilmember. Always feels odd
20 swearing in an official, but do you swear or affirm
21 the testimony you're about to give is the truth? Oh,
22 you're on mute, too.

23 **MS. PALTIN:** Sorry. I do.

24 **CHAIR SCHEUER:** Okay. Name and address for
25 the record, and please proceed.

1 **MS. PALTIN:** Tamara Paltin, 110 Pualu
2 Place, Lahaina, Hawaii 96761.

3 **CHAIR SCHEUER:** Please proceed.

4 **MS. PALTIN:** Thank you, Chair. I
5 apologize. I'm not super up-to-date on this project.
6 I just saw, you know, the conversion of 200 acres,
7 and I just wanted to relay my only concern without
8 knowing too much about it is that when we recently
9 did a 201H on Lanai, it was brought to our attention
10 that, you know, they're tying into county wastewater
11 treatment facilities, and we're getting close to
12 capacity there.

13 And so just I'm not sure what the scope of
14 the entire plan for 200 acres from ag to urban is,
15 but if there is going to be a number of restrooms,
16 just if you guys can make sure that there's capacity
17 for that, or some sort of condition. That's my only
18 concern. Thank you.

19 **CHAIR SCHEUER:** Thank you very much.
20 Are there questions for the witness,
21 Pulama?

22 **MR. CHIPCHASE:** No, Chair.
23 Thank you, councilmember.

24 **CHAIR SCHEUER:** Mr. Hopper?

25 **MR. HOPPER:** No, Chair. Thank you.

1 **CHAIR SCHEUER:** OPSD?

2 **MR. YEE:** No questions. Thank you.

3 **CHAIR SCHEUER:** Commissioners? Beginning
4 with Commissioner Okuda.

5 **MR. ORODENKER:** Thank you very much, Mr.
6 Chair.

7 And thank you, councilmember.

8 Let me tell you what my preliminary
9 concern is right now, and maybe you can help with
10 further testimony. And let me preface it by saying
11 even though I might have a preliminary concern, I
12 haven't made up my mind, and I really do try to keep
13 an open mind.

14 But one of my concerns is that this
15 project is just a piece of a bigger puzzle, the
16 entire puzzle being the master plan of Lanai. And
17 normally, if there's a bigger puzzle, in my view
18 there are several cases, including the Superferry
19 case, that requires that perhaps a full-on
20 environmental impact statement be prepared so that
21 there's full consultation with the community as far
22 as what the future of all the impacts would be.

23 And especially where you have an island
24 that is owned by a single owner, there might be even
25 more of a public policy concern that we shouldn't be

1 doing things or evaluating things piecemeal, but we
2 need to look at the big picture.

3 Councilmember, would you care to comment
4 on that one way or the other?

5 **MS. PALTIN:** Well, you know, I share your
6 concern for sure. I think it is a valid concern,
7 given the reasons that you stated. The landowner, I
8 believe, owns 98 percent of the island, and I do
9 believe that we're not privy to the entirety of the
10 plans being made, although I do think that it's very
11 fluid with the amount of money that the owner has.
12 He can easily shift directions, I would imagine, you
13 know, with money not being an obstacle.

14 I would say plans can change very easily
15 compared to those for other people. I think, last I
16 googled, the net worth was about \$122 billion. So do
17 share your concerns, although I'm not very familiar
18 with this exact project (inaudible) a lot.

19 **COMMISSIONER OKUDA:** Yeah. Thank you. And
20 I don't mean my comments to be taken totally
21 negative, because as I stated at the 201H hearing, I
22 believe one thing that is very favorable for Pulama
23 Lanai is they have Kurt Matsumoto. And based on
24 hearing and observing him as a witness, I conclude
25 that his heart is in Lanai. He's a Lanai boy, Lanai

1 high school graduate, and so I have no doubt about
2 his bona fides or his good intentions.

3 And preliminarily anyway, even though
4 we're only talking about the EA and not necessarily
5 the project itself, there are very meritorious
6 reasons for the project. So thank you very much for
7 your comment.

8 Thank you, Mr. Chair. No further
9 questions.

10 **CHAIR SCHEUER:** Commissioners, are there
11 other questions for Councilmember Paltin?

12 If I may, and this might be a better
13 question, Ms. Paltin, for Maui County, so feel free
14 to defer, but are you aware of any urbanization on
15 Maui Island of 200 acres or more for industrial use
16 in recent times?

17 **MS. PALTIN:** Not that I'm aware of for 200
18 acres. I think maybe the last one that I heard about
19 was industrialization at Pulehunui with DHHL, but
20 from what I understand, they're not bound by county
21 permitting and planning restrictions because of
22 DHHL. But I hadn't heard of anything on Maui County,
23 but you're right, it may be a better question for
24 Mr. Hart.

25 **CHAIR SCHEUER:** One question, though, that

1 may be is better for you. If there was a proposal on
2 Maui with its size and population for an additional
3 200 acres of industrial land, would you expect the
4 community to give it considerable scrutiny?

5 **MS. PALTIN:** Oh, yeah, for sure. Yes.

6 **CHAIR SCHEUER:** I have nothing further.

7 Thank you very much.

8 Is there anything further for

9 Councilmember Paltin?

10 Thank you very much for taking the time to
11 give your testimony. We appreciate it.

12 **MS. PALTIN:** Thank you.

13 **CHAIR SCHEUER:** Aloha.

14 Going to move councilmember to be an
15 attendee. Are there any other members of the public
16 who wish to provide public testimony on this matter?
17 If so, please raise your hand using the Raise Your
18 Hand function. If I see no more, I will close public
19 testimony on this matter and move on. Going once,
20 going twice. Seeing none, I'm closing public
21 testimony on this matter, and we will proceed with
22 the presentation by Pulama Lanai.

23 Perhaps, Mr. Chipchase, if you would give
24 us an overview of how you want to use your time
25 today and how much time you'd like to use, and then

1 I can plan our breaks accordingly.

2 **MR. CHIPCHASE:** Sure, Chair. I'm tempted
3 to joke with you that I'll wrap up sometime
4 tomorrow, but I don't think that would land well, so
5 I'll just be straightforward and say --

6 **CHAIR SCHEUER:** Leave the room.

7 **MR. CHIPCHASE:** Well said, Chair. My
8 presentation, including the witnesses that I will
9 present, will consume less than an hour, chair,
10 including my closing comments on it. I have a number
11 of substantive experts that are available should the
12 commission have questions related to their field. I
13 don't plan to present all of them. I'll present a
14 handful of those, and I'll go through that in my
15 outline.

16 If I may, I think the most efficient way
17 would be to complete my presentation and then make
18 all the witnesses available for any questions. But,
19 of course, that's at the commission's election.

20 Once I'm done, you know, obviously, we'll
21 turn it over to questions. I can bring in those
22 other witnesses and then move on to the other
23 parties to the proceeding.

24 **CHAIR SCHEUER:** Okay. That sounds like a
25 very helpful plan. I appreciate the outline.

1 I realize that we did start late due to
2 late arrival of commissioners, but just for the sake
3 of keeping everything together, I'd like to suggest
4 we take a 10-minute break now, begin exactly at
5 10:00 with Mr. Chipchase's presentation. Is that
6 acceptable?

7 **MR. CHIPCHASE:** Yes, Chair.

8 **CHAIR SCHEUER:** Okay. We're in recess
9 until 10.

10 **(Recess taken from 9:49 - 10:00 a.m.)**

11 **CHAIR SCHEUER:** Okay. We are back on the
12 record, and we're going to start with the
13 presentation of Pulama Lanai and their counsel, Mr.
14 Calvert Chipchase. Please proceed.

15 **MR. CHIPCHASE:** Thank you, Chair. Good
16 morning again, and good morning, Commissioners.

17 As you know, we're here for consideration
18 of the Miki Basin Industrial Park Final
19 Environmental Assessment and our request for the
20 issuance of a finding of no significant impact in
21 according with Chapter 343 of the Hawaii Revised
22 Statutes.

23 This FEA evaluates the impact of the
24 proposed light and heavy industrial park. Pulama
25 Lanai is proposing this industrial project as part

1 of the implementation of Lanai Community Plan. And
2 so, if you look at the timeline that we put up on
3 the screen, in 2016, the Lanai Community Plan was
4 updated, and it included this industrial park. So
5 this is simply the next step in that community
6 process. And at the time that the community plan was
7 adopted, there was extensive community discussion
8 and input.

9 The final environmental assessment that
10 implements that community plan was conducted to
11 evaluate the impacts of that action and took into
12 account both agency and public input.

13 Several technical studies were prepared,
14 and we will cover some of them in detail today, and
15 you've already heard from two public testifiers, Ms.
16 Preza and Mr. Alconcel, about the purpose and need
17 for that project -- the need for industrial space on
18 Lanai, which is consistent with the reason this area
19 was planned for industrial uses.

20 The 10 witnesses who are available today
21 to answer any questions that the commission may have
22 are listed up on the screen for you. I will only
23 call six of those witnesses as part of my
24 presentation, and our goal is to keep the
25 presentation short and respectful of your time. Of

1 course, if you'd like to speak with any of them or
2 all of them, they are available today.

3 Our planned witnesses, and setting next to
4 me now, include Dr. Keiki-Pua Dancil, who will
5 discuss the purpose and need and the project
6 description; Tessa Munekiyo Ng will discuss the
7 preparation of this final environmental assessment.
8 We have Ken Kawahara, and he will discuss the master
9 plan and the wastewater master plan. Tom Nance will
10 discuss the new well supply study and the
11 alternative study.

12 Dr. Trisha Kehaulani Watson will discuss
13 the archaeological, cultural, and historical
14 studies. And finally, Kurt Matsumoto will conclude
15 our witness testimony by sharing the vision of
16 Pulama Lanai and how the Miki Basin project will
17 positively impact Lanai and fulfill that community
18 plan.

19 With that, Chair, I'll move on to my first
20 witness, if I may, Dr. Keiki-Pua Dancil.

21 **CHAIR SCHEUER:** Yes. Please go ahead.

22 **MR. CHIPCHASE:** Chair, would you like to
23 swear in the witness?

24 **CHAIR SCHEUER:** I would.

25 Do you swear or affirm that the testimony

1 you're about to give is the truth?

2 **DR. DANCIL:** I do.

3 **CHAIR SCHEUER:** Thank you, Dr. Dancil.

4 **MR. CHIPCHASE:** All right. Dr. Dancil,
5 would you introduce yourself to the commissioners?

6 **DR. DANCIL:** Aloha, Commissioners. Keiki-
7 Pua Dancil, senior vice president, government
8 affairs and strategic planning for Pulama Lanai.

9 **CHAIR SCHEUER:** If you would, one moment.
10 Commissioner Giovanni?

11 **COMMISSIONER GIOVANNI:** Yes. I wish to
12 disclose to everyone that Ms. Dancil and I were
13 former colleagues at Hawaiian Electric Company in
14 the 2010-2015 time period. However, I don't feel
15 that that relationship will have any bearing on my
16 objectivity and fairness in deciding this matter
17 before the commission today.

18 **CHAIR SCHEUER:** Thank you for that
19 disclosure. I'm going to talk with the parties if
20 they have any objection to your continued
21 participation. And then, since you've chosen to
22 disclose on that, I'll just list off my
23 relationships with the various witnesses following
24 that.

25 Any objection to Commissioner Giovanni's

1 continued participation, Mr. Chipchase?

2 **MR. CHIPCHASE:** No, Chair.

3 **CHAIR SCHEUER:** Mr. Hopper?

4 **MR. HOPPER:** No, Chair.

5 **CHAIR SCHEUER:** Okay.

6 **MR. YEE:** No, Chair.

7 **CHAIR SCHEUER:** And Mr. Yee? Okay.

8 **MR. YEE:** No objection. Thank you.

9 **CHAIR SCHEUER:** Thank you. Would you put
10 the slide back up with the witnesses?

11 **MR. CHIPCHASE:** Yes, Chair.

12 **CHAIR SCHEUER:** So I've professionally
13 interacted with Ms. Ng, Mr. Nance, and Ms. Watson in
14 various capacities, and Mr. Kawahara is an Iolani
15 classmate of mine. But I believe, despite my
16 professional and social relationships with all of
17 these individuals, I can continue to be fair and
18 impartial. In these proceedings, if there is a
19 concern, I'm going to ask each of the parties, and
20 if there is a concern, I'll ask the vice chair to
21 take over for deliberations and for whether or not I
22 should continue to participate.

23 Mr. Chipchase?

24 **MR. CHIPCHASE:** No objection, Chair.

25 **MR. HOPPER:** No objection, Chair.

1 **MR. YEE:** No objection.

2 **CHAIR SCHEUER:** Okay. Thank you.

3 Anyone else on the commission who wish to
4 disclose any relationships with any of the witnesses
5 that Pulama is bringing forward?

6 Seeing none, thank you very much for that,
7 Commissioner Giovanni.

8 Please continue, Mr. Chipchase.

9 **MR. CHIPCHASE:** Very well, Chair. I
10 believe we left off, Dr. Dancil, with my request
11 that you briefly describe your responsibilities at
12 Pulama Lanai.

13 **DR. DANCIL:** Sure. So my responsibilities
14 include the overall project management, strategic
15 planning, and execution of permits and entitlements.
16 I direct the efforts of the community development
17 plan, which engages directly with the Lanai
18 community, the cultural and historic preservation
19 team, which monitors our construction activities,
20 restores historic sites, implements our preservation
21 plans and other similar activities.

22 In addition, I work in close collaboration
23 with the senior vice president of development and
24 construction. Together we align our activities to
25 achieve our vision for Pulama Lanai, ensuring a

1 unified process.

2 **MR. CHIPCHASE:** And would you just
3 describe for us your educational history and your
4 experience in planning and development?

5 **DR. DANCIL:** I have a Ph.D. in chemistry
6 from the University of San Diego, the University of
7 California San Diego, MBA from Harvard Business
8 School.

9 The research, problem-solving, and
10 analytical nature of my educational background
11 provides me a foundation and framework to
12 strategically analyze a variety of issues that may
13 arise during the design, planning, and development
14 of any project.

15 I have over a decade of experience in
16 business development and strategy. Most recently, as
17 Commissioner Giovanni mentioned, I served as the
18 director of strategic initiatives at Hawaiian
19 Electric.

20 **MR. CHIPCHASE:** Thank you. And as I said
21 in my introduction, we're here talking about the
22 Miki Basin project and asking the commission to
23 approve a finding of no significant impact, or a
24 FONSI. Would you describe your work with the
25 project?

1 **DR. DANCIL:** The project was submitted to
2 the LUC a few months before I joined Pulama. We
3 submitted the second draft EA that is currently
4 before you now as the final EA. My involvement was
5 significant during the second draft and the final
6 EA. I worked with the technical experts regarding
7 those studies.

8 In addition, I presented the second draft
9 to the community at the Lanai Planning Commission
10 for public comment and responded collaboratively
11 with our consultants on the public comments that we
12 received.

13 **MR. CHIPCHASE:** And would you describe for
14 us the proposed action?

15 **DR. DANCIL:** The proposed action is the
16 implementation of the Lanai Community Plan, which
17 calls for rezoning of 200 acres for an industrial
18 park in the Miki Basin area identified by the green
19 outline on your screen, which is the site plan. In
20 magenta, you have 50 percent that's zoned for light
21 industrial according to the community plan, and in
22 red, 50 percent is zoned heavy industrial.

23 Over 85 percent of the area has an
24 identified use and is expected to be developed
25 within the first 10 years, if not sooner. The

1 proposed action will require sufficient land
2 available for immediate industrial needs and ensures
3 sufficient availability for future economic
4 diversification to support the on-island operations.

5 **MR. CHIPCHASE:** And you mentioned the
6 community plan. Can you tell us why is Pulama Lanai
7 proposing the project at this time?

8 **DR. DANCIL:** As mentioned, we are
9 proposing the project to implement the community
10 plan, which was approved in 2016. The Miki Basin
11 project will increase the amount of land available
12 for light and heavy industrial uses, develop the
13 infrastructure necessary to encourage and support
14 the development and new expanding industrial
15 enterprises and relocate industrial uses that are
16 currently spread around the island to an appropriate
17 single location.

18 This is critical to the growth and
19 diversification of the economy on Lanai, which will
20 contribute to the island's resiliency and
21 sustainability.

22 **MR. CHIPCHASE:** And so we heard today from
23 a couple of public testifiers talking about the need
24 for more industrial space on Lanai. Can you tell us
25 what the assessment of the need for the project,

1 beginning with the existence or availability of
2 urban land already on Lanai?

3 **DR. DANCIL:** There is a very limited
4 amount of what is designated as urban district on
5 Lanai, which is indicated as gray on the map on your
6 screen. Approximately 3,000 acres, or 3 percent, of
7 the land on Lanai is designated urban district.

8 **MR. CHIPCHASE:** So within this existing
9 area, is there already sufficient space for an
10 industrial park?

11 **DR. DANCIL:** There is not sufficient space
12 in Lanai City. Even if there was sufficient space,
13 the current uses and proposed industrial uses are
14 not compatible.

15 **MR. CHIPCHASE:** Why was this location for
16 the project site?

17 **DR. DANCIL:** The site was strategically
18 selected. It is located away from the primary
19 residential and resort areas. It will consolidate
20 the industrial uses that are currently scattered. It
21 is near other industrial uses on the island. Its
22 adjacent parcels include the Lanai airport, the MECO
23 fossil fuel facility, and the other 20-acre Miki
24 Basin industrial condominium.

25 The site is also in close proximity to

1 both Kaunalapau Harbor, which is the primary seaport
2 of entry of goods to the island, and the airport,
3 the only point of entry for air cargo, both of which
4 are conveniently located for future economic
5 activities that may require transportation of
6 commerce on or off the island.

7 **MR. CHIPCHASE:** What planned uses for this
8 community plan 200-acre area are known at this time?

9 **DR. DANCIL:** Let's walk through the
10 waterfall chart on this side, on the left. We set
11 aside 10 percent, or 20 acres, for infrastructure.
12 This is roads, common areas, et cetera, for the
13 entire project. This is a common assumption in
14 planning industrial parks of this size.

15 We are planning to relocate industrial
16 uses already in existence on-island. These are
17 identified as blue in your chart. We have 14.5 acres
18 for a concrete crushing facility and interim uses,
19 and 12.5 acres for an asphalt plant.

20 Relocating the concrete and asphalt
21 facilities will consolidate industrial uses from
22 other parts of the island and will not add to the
23 industrial footprint on Lanai.

24 We have also set aside 127 acres for
25 development of renewal energy for the project. MECO

1 has solicited bids with regard to renewable energy
2 projects, which is utilizing photovoltaic and
3 battery energy storage technology. Bids were due
4 yesterday, and awards are scheduled to be announced
5 in April.

6 This area was selected because it is
7 adjacent to the MECO fossil fuel facility. The co-
8 location of projects significantly reduces the
9 interconnection costs, which brings down the cost of
10 the overall project, which benefits all customers on
11 Lanai, because this is a pass-through. Further away
12 or across the street would just add additional costs
13 borne by our residents.

14 These planned uses account for 174 acres,
15 or 87 percent of the total proposed project area.
16 The remaining 26 acres are reserved for other
17 industrial uses, which have not been identified
18 specifically at this time.

19 **MR. CHIPCHASE:** What is the timing of the
20 proposed development of this 200-acre park?

21 **DR. DANCIL:** As you can see on this slide,
22 we anticipate relocating the industrial uses
23 immediately, within the first year or two after
24 approval.

25 The renewable energy project is

1 anticipated to have a guaranteed commercial
2 operation state no later than August 2025. However,
3 the RFP respondents are encouraged to bring their
4 projects online by December 2024.

5 The other new industrial uses will be
6 developed on an as-needed basis, meaning if there is
7 interest and space available. However, as noted in
8 the market setting, we anticipate that the 26 acres
9 will be used.

10 **MR. CHIPCHASE:** Dr. Dancil, you mentioned
11 in your introductory remarks that you were brought
12 in during the second draft of the FEA. How did the
13 second draft differ from the first draft of the FEA?

14 **DR. DANCIL:** The second draft included a
15 much more detailed development plan and updated
16 technical studies. In some areas, we conducted
17 studies to support our application.

18 **MR. CHIPCHASE:** Would you go over just
19 some of those details for us?

20 **DR. DANCIL:** On this slide, we've
21 summarized the changes of various technical studies.
22 We've updated a few studies. It's indicated as an X
23 under update study. These include drainage, economic
24 and fiscal impact, traffic impact analysis,
25 wastewater and water master plans.

1 These also supplemented the ethnographic
2 component with interviews based on community
3 feedback. And we've completed our ecological data
4 recovery plan and report. That has been submitted to
5 SHPD in January for review.

6 In addition, we've added two new studies,
7 a new well supply alternative study and a market
8 study.

9 **MR. CHIPCHASE:** Thank you, Dr. Dancil.
10 Chair, Commissioners, I don't have any
11 further questions for Dr. Dancil at this time. Of
12 course, she is available for your questions. Or, as
13 I suggested, maybe we hold questioning until I've
14 completed my presentation, because other witnesses
15 may answer your questions. Thank you, Chair.

16 **CHAIR SCHEUER:** The chair's inclination is
17 to follow the suggestion of the counsel for Pulama
18 and just hold question until the end. Any concerns
19 with that? If you change your mind, members, you can
20 just raise your hand, and I'll call on you.

21 Please go ahead.

22 **MR. CHIPCHASE:** Thank you, Chair. So at
23 this point, I will call my next witness, Tessa Ng.

24 **MS. NG:** Good morning, Chair.

25 **CHAIR SCHEUER:** Good morning. Do you swear

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

3 **MS. NG:** I do.

4 **CHAIR SCHEUER:** Thank you.

5 **MR. CHIPCHASE:** Ms. Ng, would you please
6 introduce yourself to the commission?

7 **MS. NG:** Good morning, Commissioners. My
8 name is Tessa Munekiyo Ng, and I'm a vice president
9 at Munekiyo Hiraga.

10 **MR. CHIPCHASE:** And would you describe
11 your responsibilities briefly at Munekiyo Hiraga?

12 **MS. NG:** Sure. I advise major landowners,
13 government agencies, and nonprofit organizations
14 through the environmental review and land use
15 permitting process. I'm responsible for managing
16 project teams at Munekiyo Hiraga to ensure that our
17 EA's, EIS's, and land use entitlement applications
18 are prepared in accordance with applicable
19 government regulations and standards.

20 **MR. CHIPCHASE:** And would you describe for
21 us your educational history and experience in
22 environmental planning?

23 **MS. NG:** Sure. I have a master's degree in
24 city and regional planning from the University of
25 California at Berkeley. Prior to that, I graduated

1 with a bachelor's degree with honors in political
2 economy from Georgetown University. I'm a member of
3 the American Institute of Certified Planners, the
4 American Planning Association Hawaii Chapter, the
5 Urban Land Institute, and Lambda Alpha
6 International.

7 **MR. CHIPCHASE:** And, Ms. Ng, looking at
8 the course of your career, approximately how many
9 EA's and EIS's have you been responsible for?

10 **MS. NG:** Sure. I'd say over 25.

11 **MR. CHIPCHASE:** And in your experience,
12 have you had an opportunity to testify before any
13 board or commission in Hawaii?

14 **MS. NG:** Yes. I appeared before the Maui
15 Planning Commission, the Lanai Planning Commission,
16 Board of Variances and Appeals, Maui County Council,
17 Honolulu City Council, as well as the Board of Land
18 and Natural Resources.

19 **MR. CHIPCHASE:** And were you qualified as
20 an expert in environmental planning in any of those
21 instances?

22 **MS. NG:** Yes. I appeared as the consultant
23 on various EA's, EIS's, and entitlement
24 applications.

25 **MR. CHIPCHASE:** And I understand that you

1 worked on the second draft EA for the Miki Basin
2 200-acre industrial park; right?

3 **MS. NG:** Yes. That's correct.

4 **MR. CHIPCHASE:** And could you describe for
5 us your work on that project?

6 **MS. NG:** Sure. As you mentioned, Munekiyo
7 Hiraga was brought on board at the end of 2020, when
8 the plans for the project were being refined and
9 further detailed, and as such, our involvement has
10 included this most recent second draft EA, as well
11 as addressing comments and submission of the final
12 EA.

13 **MR. CHIPCHASE:** Thank you, Ms. Ng.

14 Chair, I would ask that the commission
15 recognize Ms. Ng as an expert in the field of land
16 use and environmental planning.

17 **CHAIR SCHEUER:** Just to clarify, Mr.
18 Chipchase, so your questions were on the
19 environmental review, but you want her also
20 qualified as an expert for land use planning?

21 **MR. CHIPCHASE:** Well, I believe that in
22 the environmental review conducted through the EA,
23 her experience justifies both designations, Chair.

24 **CHAIR SCHEUER:** Okay.

25 Any objections, starting with the County?

1 **MR. HOPPER:** No, Chair.

2 **CHAIR SCHEUER:** OPSD?

3 **MR. YEE:** We have no objections. Just in
4 anticipation while we're -- possibly, Mr. Chase will
5 be asking this question of a number of other
6 witnesses. I kind of just felt that our lack of
7 objection at this time, while I highly doubt we'll
8 have objections later for Ms. Ng, our lack of
9 objection on this proceeding does not necessarily
10 prejudice our ability to object at a substantive
11 hearing until we have more opportunity to review the
12 witnesses' qualifications and resume. Thank you.

13 **CHAIR SCHEUER:** So noted. Mr. Yee, for
14 some reason, your -- I was able to catch everything
15 you were saying, but your audio was distorted.

16 Commissioners?

17 We'll recognize Ms. Ng.

18 **MR. CHIPCHASE:** Thank you, Chair.

19 **CHAIR SCHEUER:** An expert as stated.

20 Please continue, Mr. Chipchase.

21 **MR. CHIPCHASE:** And, Ms. Ng, would you
22 summarize for us the agency consultation process in
23 the first and second draft EA. And I understand we
24 put that information up on the screen.

25 **MS. NG:** Yes. As you can see in the chart,

1 we received comments from a number of agencies,
2 including the LUC, Office of Planning and
3 Sustainable Development, DLNR, state DOT, and the
4 County Planning Department. We also received
5 comments from several other agencies during both the
6 first and second draft EA, as noted by the Xs in the
7 chart.

8 **MR. CHIPCHASE:** And was there also public
9 participation, meaning individuals other than the
10 agencies, that has an opportunity to consult and
11 comment?

12 **MS. NG:** Yes. And all individuals that
13 submitted comments during the 30-day comment periods
14 were responded to.

15 **MR. CHIPCHASE:** Was there any other public
16 engagement in siting an industrial park, a 200-acre
17 industrial park, in this area?

18 **MS. NG:** Yes. There was extensive public
19 engagement during the Lanai Community Plan process
20 where the proposed 200-acre industrial park was
21 discussed at 10 Lanai Community Plan advisory
22 committee meetings, four Lanai Planning Commission
23 meetings, and three Maui County Council meetings as
24 part of the update to the Lanai Community Plan.

25 In addition, a community meeting was held

1 on Lanai on October 22nd, 2016, where the project
2 was explained and questions were fielded.

3 **MR. CHIPCHASE:** Moving from that the
4 public comment is part of siting the project here in
5 the Community Plan to the FEA, were all comments on
6 the FEA addressed?

7 **MS. NG:** Yes. All substantive comments
8 were addressed in the final EA, and all comments
9 were responded to that were received during the
10 comment period.

11 **MR. CHIPCHASE:** And if we can turn from
12 the opportunity for public input on the site and on
13 the EA to the substance of EA, help us understand
14 what the trigger for the EA was.

15 **MS. NG:** Sure. So in this instance, the
16 trigger was the use of state lands -- more
17 specifically, intersection improvements that are
18 proposed at Kaunalapau Highway that will be
19 required.

20 **MR. CHIPCHASE:** And help us understand,
21 too, what the purpose of an EA is.

22 **MS. NG:** An EA is a document that
23 evaluates and provides information to the public and
24 decision-makers as to whether a proposed action has
25 a significant environment affect.

1 **MR. CHIPCHASE:** And what did your analysis
2 through the EA conclude?

3 **MS. NG:** We concluded that the Miki Basin
4 Industrial Park does not have a significant effect
5 pursuant to the 13 significant criteria that are
6 outlined in the EIS rules, HAR 11-200.1-13. And as
7 you can see on this slide and the following, all
8 criteria were assessed, and the results were not
9 significant.

10 **MR. CHIPCHASE:** As part of your analysis,
11 were secondary and cumulative impacts also
12 considered?

13 **MS. NG:** Yes. They were. And the project
14 will not result in significant cumulative or
15 secondary impacts.

16 **MR. CHIPCHASE:** If you could summarize for
17 us, what would you say the key takeaways are from
18 this updated FEA?

19 **MS. NG:** As has been noted previously, the
20 proposed Miki Basin Industrial Park is implementing
21 the Lanai Community Plan. There are no impacts to
22 archaeological resources or cultural practices. The
23 impacts to agricultural lands are insignificant.

24 There are no impacts to flora or fauna resources.

25 There are no drainage, wastewater, or

1 traffic impacts. There's also no immediate need for
2 development of new water resources, and there's
3 capacity when the demand requires the development of
4 a new well for future industrial use. And lastly,
5 there is a positive impact to the economy of Lanai.

6 **MR. CHIPCHASE:** And, Ms. Ng, in your
7 professional opinion, is a FONSI warranted for this
8 FEA?

9 **MS. NG:** Yes. I do believe the finding of
10 no significant impact is warranted.

11 **MR. CHIPCHASE:** Thank you, Ms. Ng.

12 Chair, I have no further questions, and
13 I'm prepared to call my next witness.

14 **CHAIR SCHEUER:** Please proceed.

15 **MR. CHIPCHASE:** Thank you, Chair.

16 Chair, I call Ken Kawahara.

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

19 **MR. KAWAHARA:** Yes, Chair.

20 **MR. CHIPCHASE:** Would you please introduce
21 yourself to the commission?

22 **MR. KAWAHARA:** My name is Ken Kawahara,
23 with Akinaka & Associates, an 81-year-old civil
24 consulting firm.

25 **MR. CHIPCHASE:** And what is your current

1 position?

2 **MR. KAWAHARA:** President and CEO of
3 Akinaka & Associates.

4 **MR. CHIPCHASE:** And would you describe for
5 us your responsibilities?

6 **MR. KAWAHARA:** Job responsibilities
7 include principal project management, facilities
8 planning, marketing, business development, strategic
9 planning, and monitoring work effort and quality
10 control.

11 **MR. CHIPCHASE:** And would you describe for
12 us your educational history and experience in the
13 field of civil engineering?

14 **MR. KAWAHARA:** I have over 28 years of
15 civil engineering experience. Prior to joining
16 Akinaka & Associates, I served as the deputy
17 director for the State of Hawaii Department of Land
18 and Natural Resources Commission on Water Resource
19 Management.

20 I have experience in both the public and
21 private sector in planning, design, contracting,
22 construction, construction management, regulatory
23 compliance, and environmental quality monitoring. I
24 also spent 10 years for the City & County of
25 Honolulu Department of Wastewater Management, now

1 known as Environmental Services. I was the branch
2 head for the regulatory control branch.

3 **MR. CHIPCHASE:** And if we look at the
4 course of your career, how many wastewater and water
5 master plans have you conducted?

6 **MR. KAWAHARA:** I have prepared at least
7 six wastewater and over 12 water master plans, and I
8 have reviewed quite a bit of reports during my
9 public service.

10 **MR. CHIPCHASE:** And over the course of
11 your career, have you had an opportunity to testify
12 before any board or commission?

13 **MR. KAWAHARA:** Yes. I have. I've testified
14 before the Board of Land and Natural Resources and
15 the Commission on Water Resource Management.

16 **MR. CHIPCHASE:** And are you familiar with
17 the Miki Basin industrial project?

18 **MR. KAWAHARA:** Yes. I am.

19 **MR. CHIPCHASE:** And was it your role to
20 supervise the preparation of the wastewater and
21 water master plans for that project?

22 **MR. KAWAHARA:** Yes.

23 **MR. CHIPCHASE:** Chair, at this time, I
24 would ask that Mr. Kawahara be recognized as an
25 expert in the field of civil engineering

1 specifically with respect to water and wastewater
2 management plans.

3 **CHAIR SCHEUER:** Any objections?

4 **MR. HOPPER:** No objection, Chair.

5 **MR. YEE:** No objection, Chair, subject to

6 --

7 **CHAIR SCHEUER:** Same -- same --

8 **MR. YEE:** Yes.

9 **CHAIR SCHEUER:** We're still -- just so you
10 know, Mr. Yee, when it comes to your turn, we're
11 picking up huge audio interference from you.

12 **MR. YEE:** I'm sorry. It might be because
13 there is a lawnmower in the --

14 **CHAIR SCHEUER:** Commissioners, any
15 objections?

16 Qualified as requested. Please continue.

17 **MR. CHIPCHASE:** Thank you, Chair. And I'll
18 note, just in case Mr. Yee's lawnmower continues,
19 that his reservation to his lack of objections is
20 noted and accepted.

21 All right. Mr. Kawahara, we've put up on
22 the screen Exhibit H-1 to the FEA. That's the water
23 master plan. And I'd like you to please describe the
24 current water system used by the Miki Basin area.

25 **MR. KAWAHARA:** Water for Miki Basin is

1 currently provided by the Manele water system, which
2 is owned, operated, and maintained by Lanai Water
3 Company. The Manele system is sourced by wells
4 number 2 and 4, which currently serve Manele,
5 Hulupoe, and Palawai irrigation grid.

6 Water from the wells is either stored in
7 the half-a-million-gallon Hi'i tank, the existing
8 half-a-million-gallon Hi'i tank, or the one-million-
9 gallon concrete Hi'i reservoir, or fed directly into
10 the distribution system, depending on the need.

11 The existing Manele water system consists
12 of 10-inch, 12-inch, and 16-inch transmission lines.

13 **MR. CHIPCHASE:** And what is the existing
14 daily water usage of the Manele water system that
15 wills serve the project area?

16 **MR. KAWAHARA:** The average daily water
17 usage of the system is currently estimated at
18 433,000 gallons per day, which includes the usage
19 from Sensei Farms, the Manele project district, and
20 the airport.

21 **MR. CHIPCHASE:** And what is the estimated
22 water demand the industrial park will add to this
23 water system?

24 **MR. KAWAHARA:** The concrete facility is
25 anticipated to add 2,625 gallons per day, and the

1 asphalt plant is anticipated to add 1,000 gallons
2 per day. The 127 acres of renewable energy will have
3 no demand. The other industrial uses are estimated
4 to be 156,000 gallons per day, based on water system
5 standards. In total, the project may add 159,625
6 gallons per day to the Manele Bay water system.

7 **MR. CHIPCHASE:** Mr. Kawahara, help us
8 understand the assumptions that you used when
9 calculating this future demand.

10 **MR. KAWAHARA:** Sure. Demand for the
11 concrete and asphalt plants are known, because they
12 are simply relocating. There is negligible demand
13 for the renewable energy facility.

14 For the demand of the remaining 26 acres,
15 a 6,000 gallons per day per acre estimate was used.
16 This is a standard estimate for industrial use and
17 is conservative because it assumes industrial
18 manufacturing would occur. If the use was for
19 warehouses, for example, the actual demand would be
20 much lower.

21 **MR. CHIPCHASE:** Help us understand some
22 context for that, that estimate, where it comes
23 from, and specifically compared to the demand for
24 agricultural uses.

25 **MR. KAWAHARA:** Sure. According to water

1 system standards for Maui County, the estimated
2 demand for agriculture use is 5,000 gallons per day
3 per acre. For O'ahu it's 4,000 gallons per day for
4 acre, and for Kauai it's 25,000 gallons per day per
5 acre. So the Maui estimate is more on the
6 conservative side.

7 **MR. CHIPCHASE:** I see. So it would be fair
8 to say that you used the Maui County standards, and
9 that is the most conservative estimate available.

10 **MR. KAWAHARA:** Yes.

11 **CHAIR SCHEUER:** Sorry -- 2,500 gallons per
12 day for Kauai rather than 25,000, I believe.

13 **MR. CHIPCHASE:** Sorry. Sorry about that.
14 Thank you, chair.

15 **MR. KAWAHARA:** 25,000 gallons per acre per
16 day.

17 **MR. CHIPCHASE:** 2,500.

18 **MR. KAWAHARA:** 2,500. Sorry.

19 **MR. CHIPCHASE:** How does the water master
20 plan address the needs of the project?

21 **MR. KAWAHARA:** As the graph notes, the
22 total demand for the existing water uses and the
23 full buildout of the industrial park will exceed
24 well 2's maximum daily pumping capacity. The project
25 proposes to use unused existing capacity and

1 construct a new source as needed.

2 **MR. CHIPCHASE:** In the first five years or
3 so, it's anticipated that the concrete facility and
4 the asphalt plant will be relocated. Is there
5 sufficient water to support these uses?

6 **MR. KAWAHARA:** Yes. There is existing
7 capacity in public water system 238 to support the
8 new demand for those uses.

9 **MR. CHIPCHASE:** And what upgrades are
10 required for the project in the near term?

11 **MR. KAWAHARA:** An evaluation of the
12 Palawai irrigation grid to determine pipe repair,
13 replacement, or abandonment may be necessary. But
14 the current transmission lines meet the water system
15 standards for fire protection flow. The pressure-
16 reducing valve could be lowered with addition of a
17 booster pump.

18 Storage capacity is sufficient for the
19 full buildout, and a new water resource will be
20 required when the daily pumpage is above 480,000
21 gallons per day, which is the maximum capacity for
22 well number 2.

23 **MR. CHIPCHASE:** In your opinion, Mr.
24 Kawahara, will the project have a significant impact
25 on the water infrastructure resources?

1 **MR. KAWAHARA:** No. It will not.

2 **MR. CHIPCHASE:** Turning to the wastewater
3 system, what kind of wastewater system is proposed
4 for the project?

5 **MR. KAWAHARA:** Wastewater will be treated
6 onsite with individual wastewater systems.

7 **MR. CHIPCHASE:** Can you help us understand
8 what that means?

9 **MR. KAWAHARA:** Individual wastewater
10 systems are individual systems which will collect
11 and treat the waste onsite.

12 **MR. CHIPCHASE:** And do you anticipate any
13 leaching or other issues associated with these
14 systems?

15 **MR. KAWAHARA:** We do not anticipate any
16 leaching problem or any other air quality problems
17 associated with individual wastewater systems.

18 **MR. CHIPCHASE:** All right. Thank you, Mr.
19 Kawahara.

20 Chair, I have no further questions, and
21 I'm prepared to call my next witness.

22 **CHAIR SCHEUER:** Okay. Please go ahead.

23 **MR. CHIPCHASE:** Yes, Chair. Thank you.

24 **CHAIR SCHEUER:** I will have questions for
25 Mr. Kawahara later, for sure.

1 **MR. CHIPCHASE:** Of course. Chair, my next
2 witness is appearing virtually.

3 **CHAIR SCHEUER:** Perhaps she is --

4 **MR. CHIPCHASE:** My slide deck is slightly
5 out of order, Chair.

6 **CHAIR SCHEUER:** Okay.

7 **MR. CHIPCHASE:** I will fix that for you.

8 **CHAIR SCHEUER:** Who's your next witness?

9 **MR. CHIPCHASE:** Tom Nance, Chair.

10 **CHAIR SCHEUER:** Okay. And Mr. Nance is an
11 attendee. I'm going to move him to be panelist.

12 Mr. Nance, if you could enable your audio
13 and video. There we go. And perhaps lower your
14 screen slightly so we see your entire -- yeah, there
15 we go.

16 **MR. NANCE:** Okay.

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

19 Please proceed, Mr. Chipchase.

20 **MR. CHIPCHASE:** All right. Technical
21 glitches aside, order to be nice to Mr. Goodin in
22 place. Moving on.

23 Hi, Mr. Nance. Would you please introduce
24 yourself to the commission?

25 **MR. NANCE:** Hi. I'm Tom Nance. I'm

1 president of a company doing business as Tom Nance
2 Water Resource Engineering.

3 **MR. CHIPCHASE:** And would you describe for
4 us your responsibilities in that position?

5 **MR. NANCE:** Well, in addition to being
6 president, I work on all of the hydrologic and some
7 of the hydrologic matters, primarily in the
8 development of groundwater in wells or surface water
9 as the need be.

10 **MR. CHIPCHASE:** And would you describe for
11 us your educational history and experience in the
12 field of water resource engineering?

13 **MR. NANCE:** I have a bachelor's of
14 mechanical engineering and a master's in civil
15 engineering from Stanford University. My primary
16 areas of expertise are in groundwater and surface
17 water development, which I have been doing since
18 1972. I'm in my 50th year.

19 **MR. CHIPCHASE:** You don't look it.
20 Approximately how many new well studies have you
21 conducted over the course -- new well supply studies
22 have you conducted over the course of your career?

23 **MR. NANCE:** It's more appropriate to think
24 of how many wells I've developed, because every well
25 that you develop you have to go through a study of

1 varying levels of detail. Over the 50-odd years I've
2 been doing this throughout the state of Hawaii,
3 wells of all types probably are in excess of 300.
4 And if you add the wells that I've done overseas in
5 the Western Pacific and in Bali and so forth and
6 Asia, that'll add more than 100 other new wells. So
7 that would be the extent of my experience in well
8 development.

9 **MR. CHIPCHASE:** Understood, Mr. Nance.
10 Thank you. And in that 50-year career, have you
11 testified before any water commission?

12 **MR. NANCE:** Yes. Many times, including
13 several times in front of the LUC.

14 **MR. CHIPCHASE:** And in those prior
15 opportunities to testify before the LUC and other
16 boards and commissions, were you qualified as an
17 expert witness?

18 **MR. NANCE:** Yes.

19 **MR. CHIPCHASE:** And, Mr. Nance, are you
20 familiar with the Miki Basin Industrial Park
21 project?

22 **MR. NANCE:** Familiar with its water supply
23 requirements, not the rest of the project, but that.

24 **MR. CHIPCHASE:** And focusing just on that
25 aspect of the project, did you prepare the new well

1 supply alternative study for the Miki Basin
2 Industrial Park?

3 **MR. NANCE:** I did.

4 **MR. CHIPCHASE:** Chair, I'd ask that Mr.
5 Nance be recognized as an expert in the field of
6 hydrology and water resource engineering.

7 **CHAIR SCHEUER:** Any concerns or
8 objections?

9 **MR. HOPPER:** No, Chair.

10 **MR. YEE:** No objection.

11 **CHAIR SCHEUER:** Commissioners?

12 Mr. Nance has been previously recognized
13 by this commission in that regard. Please continue.

14 **MR. CHIPCHASE:** Yes, Chair.

15 Commissioners, Exhibit H-2 to the FEA is
16 the new well supply alternatives study for the
17 Manele Bay water system, also known as public water
18 system 238, as Mr. Kawahara mentioned.

19 Mr. Nance, could you describe the current
20 system used by Miki Basin?

21 **MR. NANCE:** Well, actually, Ken Kawahara
22 did a very good job of describing the system. But
23 from the perspective of sources of supply, there are
24 two -- well 2 and well 4.

25 **MR. CHIPCHASE:** Your study looked at three

1 locations for a potential new water source for the
2 Manele system. What were the conclusions from your
3 study?

4 **MR. NANCE:** Back up a little. Ken I don't
5 believe went over, but in his water master plan, he
6 identified the need for a new source equivalent to
7 or greater than 426 GPM. So in taking a look at
8 those -- at that requirement, I looked at three
9 possible locations for a new well.

10 One would be at existing well 5, which is
11 the south of well 4 on the exhibit. That was a
12 production well way back when, stopped being used in
13 the mid-'90s, now turned into a permanent monitor
14 well.

15 The second site I looked at, which really
16 isn't denoted on this, but it's immediately inland
17 of well 2. Well 2 is almost adjacent to what's
18 called shaft 3. They're separated by one or more
19 closely-spaced vertical dikes. And looking for a
20 site immediately inland of well 2 would be to try to
21 drill into the compartment that's capped by shaft 3.
22 Shaft 3 is no longer being used.

23 And the third site I looked at, which is
24 labeled possible well sites, is about 2,000 feet to
25 the northwest of well 2. Of those -- go ahead.

1 **MR. CHIPCHASE:** No, go ahead, Mr. Nance,
2 please.

3 **MR. NANCE:** Well, of those three sites, I
4 recommended pursuing the site called possible well
5 site on the graphic. There are issues with trying to
6 put a new well next to well 5, the now permanent
7 monitoring thing, that have to do with long-term
8 yield and difficulties with caving.

9 The site inland of well 2 to tap into
10 shaft 3, there's a potential issue of some very
11 modest hydrologic connection between well 2 and
12 shaft 3, so if we drill there, we might have an
13 adverse impact on the yield from well 2.

14 So the third site, possible well site, is
15 the site that I recommend to pursue.

16 **MR. CHIPCHASE:** Thank you, Mr. Nance.

17 **CHAIR SCHEUER:** All right. I'm just going
18 to interject right here quickly. Can you go back to
19 the last slide?

20 **MR. CHIPCHASE:** Of course, Chair.

21 **CHAIR SCHEUER:** And then afterward, I'm
22 going to call on Commissioner Giovanni.

23 Is the boundary line between the windward
24 and leeward aquifers on this map, Mr. Nance?

25 **MR. NANCE:** It is not.

1 **CHAIR SCHEUER:** And if so, can you
2 indicate it?

3 **MR. NANCE:** It is not.

4 **CHAIR SCHEUER:** Is it entirely within the
5 leeward?

6 **MR. NANCE:** No. I can't draw my finger
7 across it, but if you look, I'll identify the wells
8 that are on the windward side for you. If we start
9 up at the top, well 6, the drilled well, is in the
10 windward. The lower Manele tunnel and the upper
11 Manele tunnel are also windward. And to the north of
12 there is something called shaft 2, which is also in
13 the windward. All of the other wells shown on the
14 graphic are in the leeward aquifers.

15 **CHAIR SCHEUER:** Including the proposed
16 sites.

17 **MR. NANCE:** That's correct. Yes.

18 **CHAIR SCHEUER:** Okay. Thank you, Mr.
19 Nance. Sorry for that.

20 Commissioner Giovanni?

21 **COMMISSIONER GIOVANNI:** Thank you, Chair.

22 Mr. Nance, can you clarify the units that
23 you're referring to? What is 426 GPM?

24 **MR. NANCE:** Gallons per minute.

25 **COMMISSIONER GIOVANNI:** So how does that

1 relate to what was presented by Mr. Kawahara where
2 he was talking about thousands of gallons per day, I
3 believe; right?

4 **MR. NANCE:** Yeah. I think he described the
5 capacity of well 2 by operating its pump for 16
6 hours. It's got a 500 GPM pump in it. And over a 16-
7 hour period, he came up with the number -- was it
8 432,000 gallons per day?

9 **COMMISSIONER GIOVANNI:** Okay. So GPM, your
10 M is minutes; right?

11 **MR. NANCE:** That's correct.

12 **COMMISSIONER GIOVANNI:** Okay. Thank you.
13 No further. I just wanted the clarification.

14 **MR. NANCE:** Sure.

15 **CHAIR SCHEUER:** And just to clarify for
16 our proceedings, we'll mostly do questions at the
17 end and also, of course, give the opportunity for
18 the other parties to cross any of the witnesses.

19 Please continue, Mr. Chipchase.

20 **MR. CHIPCHASE:** Mr. Chair, will do.

21 So, Mr. Nance, coming back to the work
22 that you did, would the additional pumpage from the
23 new source exceed the total pumpage of 3 million
24 gallons per day, specifically, the yield for the
25 leeward aquifer?

1 **MR. NANCE:** No. It would not. This graphic
2 shows the 3 million a day sustainable yield of the
3 leeward aquifer and the total pumpage of all of the
4 wells pumping from the leeward aquifer, and you can
5 see in the last four or five years, that average has
6 been about 1.5 million gallons a day. And in the
7 past, the peaks have been less than 2 million
8 gallons a day.

9 That red line on the graph is the moving
10 annual average, and the moving annual average is the
11 number you compare to the 3 million gallon a day
12 sustainable yield.

13 Mr. Kawahara said that at full buildout
14 and occupancy of the Miki Basin, it would add about
15 160,000 gallons a day to the current pumpage, and
16 that would still have that pumpage well below 2
17 million gallons a day and obviously below the 3
18 million gallons a day sustainable yield.

19 **MR. CHIPCHASE:** And, Mr. Nance, in your
20 opinion, would the use of this new water source
21 significantly impact the aquifer?

22 **MR. NANCE:** It would not.

23 **MR. CHIPCHASE:** Thank you, Mr. Nance.

24 Chair, I have no further questions at this
25 time. Of course, Mr. Nance will be available for

1 questions later.

2 **CHAIR SCHEUER:** You can feel free, Mr.
3 Nance, to disable your audio and video for now, but
4 stay in the room for questions.

5 **MR. NANCE:** Okay.

6 **CHAIR SCHEUER:** How many -- sorry, Cal.
7 How many more witnesses right now?

8 **MR. CHIPCHASE:** Down to two, Chair.

9 **CHAIR SCHEUER:** Okay. Well, let's do at
10 least one more before we take a break.

11 **MR. CHIPCHASE:** Very good. Where's Kehau?

12 **DR. WATSON:** I'm here.

13 **MR. CHIPCHASE:** Oh, Kehau, you're up.

14 **DR. WATSON:** I am?

15 **CHAIR SCHEUER:** Dr. Watson?

16 **DR. WATSON:** Hello.

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

19 **DR. WATSON:** Yes.

20 **CHAIR SCHEUER:** Please proceed.

21 **MR. CHIPCHASE:** Good morning. Although
22 you're known, would you introduce yourself to the
23 commission?

24 **DR. WATSON:** My name is Trisha Kehaulani
25 Watson. I'm the president and founder of Honua

1 Consulting, an archaeology and cultural resource
2 management firm.

3 **MR. CHIPCHASE:** And would you describe for
4 us your educational background and experience?

5 **DR. WATSON:** I have a Ph.D. in American
6 Studies and a law degree from the University of
7 Hawaii, and I'm also a graduate of the environmental
8 law program. I have more than 15 years of experience
9 in preparing and overseeing cultural resource
10 management reports and help familiar with claim
11 practices and resources.

12 **MR. CHIPCHASE:** And just give us an
13 estimate, over the course of your career, of the
14 number of cultural resource projects that you've
15 overseen.

16 **DR. WATSON:** Easily over 100.

17 **MR. CHIPCHASE:** And if you could also
18 describe for us your involvement with Pulama Lanai.

19 **DR. WATSON:** We have the privilege of
20 overseeing all the archaeology projects for Pulama
21 Lanai. We took over this role after Tom Dye retired
22 a few years ago, and it was a very well-done
23 transition. We brought some of his staff, what were
24 the lead staff for Lanai, on board with Honua, and
25 they continue to lead the efforts.

1 **MR. CHIPCHASE:** And looking at generally
2 your experience, have you had an opportunity to
3 testify before the Land Use Commission before?

4 **DR. WATSON:** Yes. I have.

5 **MR. CHIPCHASE:** And were you qualified as
6 an expert?

7 **DR. WATSON:** Yes. I was.

8 **MR. CHIPCHASE:** Are you familiar with the
9 Miki Basin Industrial Park project?

10 **DR. WATSON:** Yes. I am.

11 **MR. CHIPCHASE:** Can you tell us about your
12 involvement in that project?

13 **DR. WATSON:** We, again, inherited this
14 project from Tom Dye, so Tom actually led all the
15 field work. He's an outstanding archaeologist. The
16 lead field technician that worked with Tom on it is
17 now our lead field technician for Lanai, so we're
18 very familiar with the work that was done. And then
19 we're overseeing the SHPD compliance process for
20 that. And then we did some additional work to look
21 at traditional and customary practices in the area.

22 **MR. CHIPCHASE:** And was an AIS submitted
23 to SHPD for the project?

24 **DR. WATSON:** Yes. It was. And it was
25 accepted.

1 **MR. CHIPCHASE:** Chair, at this time I'd
2 ask to have Dr. Watson qualified as an expert in
3 cultural resource management, including archaeology
4 and environmental law.

5 **CHAIR SCHEUER:** Any objections?

6 **MR. HOPPER:** No objections, Chair.

7 **MR. YEE:** No objection, Chair.

8 **CHAIR SCHEUER:** Commissioners?

9 Dr. Watson so recognized. Please continue.

10 **MR. CHIPCHASE:** Yes, Chair.

11 Commissioners, Exhibit D-1 to the FEA is
12 the archaeological inventory survey, the AIS.
13 Exhibit D-2 is the acceptance letter. D-3 is the
14 archaeological data recovery plan and report, and D-
15 4 is supporting documentation on the cultural impact
16 assessment report.

17 And, Dr. Watson, I hope you can just
18 briefly describe for us the findings of the AIS.

19 **DR. WATSON:** Yes. So Tom and his team did
20 a 100 percent pedestrian survey of the entire
21 parcel. They then determined that it would be
22 appropriate to do some subsurface testing. As you
23 see there on your screen, the blue dots represent
24 the 31 trenches that they did on the subsurface
25 work. And that was basically what was in the AIS.

1 And they at the end of that recommended
2 data recovery for two sites, but the AIS was sort of
3 stopped at the subsurface testing. And that's what
4 was submitted to SHPD for review.

5 Then he did complete the data recovery
6 plan and a data recovery report, so those two sites
7 were fully tested and, you know, the data was
8 recovered. Any remnant parts or materials are now
9 being professionally curated with the Lanai Culture
10 and Heritage Center, as we do with any sites that
11 undergo data recovery.

12 **MR. CHIPCHASE:** And in addition to the
13 archaeological work that was conducted by Mr. Dye,
14 did your firm collect any ethnographic data?

15 **DR. WATSON:** Yes. So the ethnographic data
16 was actually collected in two parts. So the
17 procedure beforehand, before we took over, Kepa
18 Maly, who's a cultural expert extraordinaire,
19 actually, and Tom would work together to include all
20 of the traditional and customary information in the
21 AIS itself.

22 So Kepa did an extensive study and looked
23 at all sort of the history of the Hawaiian language
24 resources, and that was all included in the AIS. And
25 then subsequently, we did a couple of interviews

1 with practitioners, and then all of that was put
2 together, and then at the end of that, we determined
3 that no traditional or customary practices would be
4 affected by the project.

5 **MR. CHIPCHASE:** And we've put up on the
6 screen the acceptance letter that you mentioned
7 earlier. As part of that acceptance letter, did SHPD
8 concur in the assessment and mitigation
9 recommendations?

10 **DR. WATSON:** Yes. They did.

11 **MR. CHIPCHASE:** And in your opinion, Dr.
12 Watson, would the Miki Basin project affect or
13 impair Native Hawaiian or customary -- Native
14 Hawaiian customary or traditional rites?

15 **DR. WATSON:** No. Our conclusion in this
16 case was that it would not affect or impair
17 traditional or customary rites.

18 **MR. CHIPCHASE:** Thank you, Dr. Watson.
19 Chair, I have no further questions at this
20 time.

21 **CHAIR SCHEUER:** Thank you. And you have
22 one more?

23 **MR. CHIPCHASE:** Yes, Chair. Mr. Matsumoto.

24 **CHAIR SCHEUER:** Let's go through it, and
25 then we'll take a break.

1 **MR. CHIPCHASE:** Very good, Chair. All
2 right, chair, swear in the witness, please.

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

5 **MR. MATSUMOTO:** Yes. I do.

6 **MR. CHIPCHASE:** All right. Mr. Matsumoto,
7 like Dr. Watson, you're known, but would you
8 introduce yourself anyway?

9 **MR. MATSUMOTO:** Yes. My name is Kurt
10 Matsumoto, and I am the chief operating officer for
11 Pulama Lanai.

12 **MR. CHIPCHASE:** And would you describe for
13 us your responsibilities?

14 **MR. MATSUMOTO:** Yes. As the COO, I lead
15 management work with the Lanai community to plan and
16 implement sustainable commerce, energy,
17 conservation, health care, housing, education, and
18 hospitality initiatives.

19 **MR. CHIPCHASE:** And how long have you been
20 with Pulama Lanai?

21 **MR. MATSUMOTO:** I've been with the
22 organization since the beginning in 2012.

23 **MR. CHIPCHASE:** And what kind of work did
24 you do before you joined Pulama Lanai.

25 **MR. MATSUMOTO:** Previously, I spent time

1 working with the previous landowner for about 10
2 years. I opened the Manele Bay Hotel and also
3 managed the operations of the Lodge at Koele and
4 both golf courses on Lanai.

5 I later moved on to managing operations on
6 Hawaii Island at the Mauna Lani Bay Resort, and then
7 later on Kauai at the Kukui'ula Resort.

8 **MR. CHIPCHASE:** And as we've gone over for
9 the last hour or so, we're here talking about the
10 FEA, the final environmental assessment for the Miki
11 Basin Industrial Park. And I'd like to discuss the
12 place of that park on the island of Lanai.

13 **MR. MATSUMOTO:** Sure. We strive to foster
14 a resilient and sustainable community, reducing our
15 dependency on fossil fuels and developing a place
16 where people and future generations can thrive.

17 **MR. CHIPCHASE:** And where does the Miki
18 Basin fit in that vision for sustainability and
19 resiliency?

20 **MR. MATSUMOTO:** Miki Basin is an important
21 part of our vision. In order to have a robust and
22 diversified economy that supports a sustainable and
23 resilient culture, we need to have diversified land
24 uses.

25 Proper zoning will aid in diversifying the

1 economy, encouraging new industry to develop, and
2 provide spaces to support services for small
3 businesses. Proper zoning will allow the
4 installation of infrastructure suited to the type of
5 uses in a light or heavy industrial area.

6 A key feature in the Miki Basin boundary
7 amendment is the development of renewable energy
8 projects, which are meant to stabilize and hopefully
9 lower energy costs by reducing our dependence on
10 fossil fuels. Development of renewable energy is key
11 to increasing our energy security and becoming more
12 resilient.

13 **MR. CHIPCHASE:** And as the community plan
14 called for the creation of this 200-acre industrial
15 park, is it anticipated with Lanai will require this
16 additional industrial space?

17 **MR. MATSUMOTO:** Yes. Currently, there is a
18 lack of industrial-zoned lands on the island. The
19 Miki Basin Industrial Park will provide space for
20 our current needs and allow expansion of future
21 economic diversification and our resilience.

22 **MR. CHIPCHASE:** And as part of that
23 anticipated need, can you tell us about the
24 anticipated uses in the industrial park?

25 **MR. MATSUMOTO:** Development of the 200-

1 acre industrial park will allow existing industrial
2 facilities currently scattered in businesses and
3 residential areas in Lanai City to relocate to a
4 more appropriate location having the infrastructure
5 and buffers necessary for industrial use.

6 **MR. CHIPCHASE:** And consistent with that
7 consolidation and from some of the public testimony
8 that we heard and Dr. Dancil's testimony, what kind
9 of heavy industrial uses might you anticipated?

10 **MR. MATSUMOTO:** Some examples of heavy
11 industrial uses in communities of this size could
12 include lumberyards, machine shops, major utility
13 facilities, concrete and asphalt operations, and
14 maybe one day a slaughterhouse.

15 **MR. CHIPCHASE:** And the same question with
16 respect to light industrial uses. What kinds of
17 light industrial uses are anticipated?

18 **MR. MATSUMOTO:** Generally, we could
19 envision things like cold storage plants, commercial
20 laundry, general food, fruit and vegetable
21 processing, tire repair operation, and warehouse
22 storage.

23 **MR. CHIPCHASE:** You talked about the
24 importance of sustainability and resiliency. How
25 does the project incorporate those values?

1 **MR. MATSUMOTO:** As the developer, Pulama
2 Lanai will ensure that the industrial park
3 incorporates, to the extent feasible and
4 practicable, measure to promote energy conservation,
5 sustainable design, environmental stewardship, and
6 protection of the area's natural and cultural
7 resources.

8 **MR. CHIPCHASE:** And are those efforts
9 toward sustainability and resiliency consistent with
10 Pulama Lanai's other efforts on the island?

11 **MR. MATSUMOTO:** Yes. For example, we
12 strive to enhance and perpetuate the island's
13 diverse species and fragile ecosystem through game
14 management, native species preservation, watershed
15 management, erosion control, coastal resources and
16 fisheries management, invasive species control, and
17 conservation education.

18 We implement an integrated and
19 comprehensive approach to protect and manage Lanai's
20 natural resources.

21 **MR. CHIPCHASE:** List just some examples of
22 those efforts.

23 **MR. MATSUMOTO:** Sure. For one, major
24 capital investments have been made to update our
25 water infrastructure. We're using reclaimed water

1 systems for irrigation, and we completely renovated
2 our golf course irrigation system and designed it to
3 use less water.

4 Smart meters have been installed for our
5 customers. These enable real-time monitoring and the
6 ability to notify the utility and customers about
7 potential leaks. Implementing the water conservation
8 measures has decreased the demand on the resource,
9 thereby allowing that water that is not leaking to
10 be beneficially used or conserved.

11 **MR. CHIPCHASE:** And if we come back, then,
12 from those broader conservation efforts to the Miki
13 project, you said that this project will implement a
14 community plan for industrial uses, consolidate
15 existing industrial uses, add to economic
16 diversification, and provide energy security. Did I
17 miss anything in connection with this project?

18 **MR. MATSUMOTO:** Having a designated
19 industrial area like Miki Basin will help us
20 preserve the lifestyle in Lanai City and other parts
21 of the island. This project was thoroughly studied
22 to determine if there were significant impacts from
23 the proposed project. Our technical experts and
24 environmental planner concluded that there are no
25 significant impacts.

1 We thank the commission for your careful
2 consideration of this important project, and we ask
3 for the issuance of a finding of no significant
4 impact.

5 **MR. CHIPCHASE:** Thank you, Mr. Matsumoto.

6 Chair, Commissioners, that concludes both
7 my examination of Mr. Matsumoto and my presentation.

8 **CHAIR SCHEUER:** Thank you. If you could
9 stop screensharing for a moment, Mr. Chipchase, I
10 want to discuss with you and the counsel for OPSD
11 and the County how we'll handle questions for the
12 witnesses along with the commission.

13 I deferred to your request to leave all
14 witnesses for the end. All the parties, of course,
15 have the right to cross-examine. I know sometimes
16 questions are stimulated by other questions, so I'm
17 trying to figure out the best way to move forward
18 through any questions that might be had for any of
19 the witnesses.

20 My initial thought was to ask, noting that
21 they might change their mind slightly later, to
22 first ask if the County or Mr. Yee have particular
23 questions for any of the witnesses.

24 **MR. HOPPER:** Chair, the County does not
25 have questions for the witnesses at this time.

1 **CHAIR SCHEUER:** Okay. Mr. Yee?

2 **MR. YEE:** OPSD has no questions for the
3 witnesses. Thank you.

4 **CHAIR SCHEUER:** Okay. So what we'll do is
5 I'll ask the commissioners after we come back from a
6 break for any questions for any of the witnesses.
7 I'd like to be liberal in allowing them, if there's
8 a line of questioning that starts with the
9 commissioners, that the parties be allowed to ask
10 follow-ups for the witnesses.

11 Is that acceptable, Mr. Chipchase?

12 **MR. CHIPCHASE:** Yes, Chair.

13 **CHAIR SCHEUER:** Okay. It is 10:58. I want
14 to take a recess until 11:10. I know that I'm going
15 to have questions for at least Mr. Kawahara, Mr.
16 Nance, and the final witness, I don't know.

17 Commissioner Giovanni? Oh, you're muted,
18 Commissioner Giovanni.

19 **COMMISSIONER GIOVANNI:** Thank you, Chair.
20 It has been your custom to allow the other
21 commissioners beside yourself to ask questions
22 first.

23 **CHAIR SCHEUER:** Yes.

24 **COMMISSIONER GIOVANNI:** I have questions
25 on the water area as well, but I would encourage the

1 chair to ask his questions first, because I always
2 learn from your questions, and they usually answer
3 mine. So can I ask that you consider asking your
4 water-related questions first?

5 **CHAIR SCHEUER:** Thank you. Thank you for
6 that. I do defer to the other commissioners, but I
7 will go first if that's the desire.

8 Any other witnesses at this point, just to
9 give a heads-up, Commissioner Wong?

10 **COMMISSIONER WONG:** No, Chair. I was going
11 to ask the time limitations for other commissioners,
12 just to make sure we have a quorum for the end.

13 **CHAIR SCHEUER:** Okay. When do people need
14 to leave today? Anybody? I think 8, 9 o'clock at
15 night, we're good, so.

16 We'll go on recess until 11:10. Thank you
17 very much.

18 **(Recess taken from 10:59 - 11:11 a.m.)**

19 **CHAIR SCHEUER:** Deputy Attorney General
20 China?

21 **MS. CHINA:** Yes. Chair, I just wish to
22 disclose to everyone that I was Ken Kawahara's
23 deputy AG while he was with the water commission, but
24 that was over a decade ago.

25 **CHAIR SCHEUER:** Thank you for a good

1 disclosure as well.

2 Okay. So, Commissioners, other questions,
3 or would you like me to sort of start down my line
4 of broader questioning?

5 And, Cal, I'm going to have to work with
6 you on this one, because my questions really are
7 sort of interrelated questions around water capacity
8 as well as the plans for the development. So you
9 might need to sort of direct certain questions to
10 certain witnesses.

11 **MR. CHIPCHASE:** Sure.

12 **CHAIR SCHEUER:** And just to be
13 straightforward, the issue -- let me make an
14 introductory remark before I start my questioning,
15 first of all.

16 There is a proverb that says iron sharpens
17 iron and one mind sharpens another. The intent of my
18 question is to make sure we get a really good
19 environmental assessment and make a good
20 determination, not to cast aspersions against any
21 individual or any analysis that's been done.

22 With that said, my core questions --
23 Commissioner Giovanni?

24 **COMMISSIONER GIOVANNI:** Yes, Chair. You
25 mentioned that you're interested in the consequence

1 for development. I might note for the record that my
2 questioning has to do not only with the instant
3 development that is associated with the 200 acres,
4 but the more grandiose development of Pulama Lanai
5 for the entire 98 percent of the island that is
6 owned by Mr. Ellison.

7 So in the context that your questions are
8 asked and answered, I would appreciate it if it
9 could be expanded -- to the extent the answers could
10 be expanded to the larger, long-term development so
11 we don't address these important issues on a
12 piecemeal basis. Thank you.

13 **CHAIR SCHEUER:** Thank you, Commissioner
14 Giovanni. So -- and that's a good segue.

15 So to continue, I have some immediate
16 concerns with the development, and particularly I
17 want to understand, Mr. Chipchase, whether the
18 proposed industrial uses for the asphalt plant and
19 the solar use are -- whether or not the applicant is
20 making an affirmative commitment to only ever have
21 those industrial uses on these industrial lands, or
22 whether it's contemplated by moving these lands into
23 the urban district that in the future there could be
24 different industrial uses, because the water
25 demands, if you applied the Maui County's 6,000

1 gallons per acre per day water demand, which is
2 applied to almost any other industrial development,
3 would add up to an additional 1.2 million gallons a
4 day of need of water for 200 acres of industrial
5 land, and yet the calculation from Mr. Kawahara is
6 just over maybe 15 percent of that.

7 So I'm trying to understand the short- and
8 long-term implications of that. So I guess my first
9 question, and this might be for either Dr. Dancil or
10 Mr. Matsumoto, but while I understand it is clear
11 that the proposal is for the immediate use of some
12 of these lands for solar power and the concrete
13 plant and the asphalt plant, with very low water
14 uses, whether the landowner is permanently
15 committing to only using these urban lands for those
16 purposes.

17 **MR. CHIPCHASE:** Understood, Chair. And so
18 I have brought Dr. Dancil back next to me to address
19 that question.

20 I would just contextualize it a little
21 bit, Chair, is we're here on the FEA, which analyzes
22 reasonably foreseeable uses. Those are the
23 reasonably foreseeable uses which would be the
24 standard on the FEA, and so I think contextualized,
25 the easy answer to your question is, yes, those are

1 the appropriate issues to analyze.

2 But in terms of your broader question,
3 which obviously could come up in the DBA, I brought
4 Dr. Dancil by to answer it.

5 **CHAIR SCHEUER:** Dr. Dancil, did you hear
6 everything I said?

7 **DR. DANCIL:** I did. Thank you, Chair, Dr.
8 Scheuer, for the question.

9 I believe, to just expand a little bit
10 about the solar and battery energy project that is
11 currently before the public utilities commission
12 that is being proposed by MECO. I want to touch a
13 little bit on the comments earlier as well by --
14 public comment by Ms. Kay to just give you some
15 context.

16 The current RP is specific. It is specific
17 for photovoltaic and battery ampoule technology.
18 That is a specific ask in the current docket before
19 the public utilities commission right now.

20 The MECO RFP did recognize approximately
21 73 acres for that area, as noted by public commenter
22 Kay. However, it should be noted that depending on
23 what type of solar photovoltaic used, fixed-tilt or
24 single-axis, they have very different needs in terms
25 of lag area. She is correct that it was 77, and that

1 was for fixed-tilt.

2 Before you there was a state special use
3 permit around 2017 for a project over on Kauai, the
4 Lawai AES project. If you use the -- that was a
5 single-axis tracking technology, and it's
6 photovoltaic. However, if you use that relation of
7 megawatt per acre, you come out to approximately 122
8 acres. And that is why we reserved approximately
9 127, because we don't know what type of technology.

10 So for the near term, meaning a power
11 purchase agreement of about 20 or 25 years, we do
12 believe that that area would be used for that use.

13 Regarding --

14 **CHAIR SCHEUER:** So -- sorry, go ahead.

15 **DR. DANCIL:** All right. Regarding the
16 asphalt plant, that is 12.5 acres, and we believe
17 that will service needs, and as well as the concrete
18 facility of 14.5 acres, we currently have a special
19 use permit before the Maui Planning Commission that
20 is going to be heard next month. And that is for in-
21 term uses for that plant. And that is for 14.5
22 acres.

23 So for those 127, 12.5 as well as 14.5
24 acres, those have been -- they have been set aside
25 for those particular uses. I don't understand what

1 technology we bid for, so I cannot comment on that
2 until that's awarded.

3 **CHAIR SCHEUER:** Okay. So here's -- my
4 dilemma is that if we are considering a DBA, and
5 this is an EA for a DBA, putting this land
6 permanently into the urban district, we really have
7 to consider, I believe, the water uses that could be
8 applied to this land long into the future.

9 If you were seeking a special use permit
10 for a temporary use for photovoltaics, which is used
11 in the agricultural district, we wouldn't have that
12 same kind of analysis.

13 So I guess going back to my question, is
14 there a commitment from the company to only have,
15 let's say, industrial uses on these majority of the
16 redistricted lands which will not have significant
17 water uses?

18 **DR. DANCIL:** Yes. We have that commitment.

19 **CHAIR SCHEUER:** So that the overall water
20 use for the 200 acres is not going to exceed the
21 estimated water demands calculated by Akinaka.

22 **DR. DANCIL:** We believe so. Correct, Chair
23 Dr. Scheuer. And that is --

24 **CHAIR SCHEUER:** So thinking ahead, we
25 could rely on the environmental assessment and the

1 assumptions made around the future water demand in
2 the environmental assessment in terms of potential
3 conditions placed on this docket.

4 **DR. DANCIL:** Yes. We would be okay with
5 that.

6 **CHAIR SCHEUER:** Okay. That's very helpful.
7 That, then, gets to my sort of larger
8 question, and I'll allow Mr. Chipchase to either
9 direct them to Mr. Kawahara or Mr. Nance, who has
10 more experience on it. But I have some questions
11 around sustainable yield.

12 **MR. CHIPCHASE:** It's probably most
13 appropriately directed to Mr. Nance.

14 **CHAIR SCHEUER:** Okay.

15 Hi, Tom.

16 **MR. NANCE:** Hi.

17 **CHAIR SCHEUER:** So I'm trying to get to
18 the appropriateness of the conclusions of no
19 significant impact in the final environmental
20 assessment, and particularly the statements around
21 sustainable yield, including the statements that the
22 entire -- the two main aquifers on the island have a
23 sustainable yield of 6 million gallons per day.

24 So one question I've sort of hinted at in
25 my questions to you asking about where the wells

1 are. Am I correct in understanding that the vast
2 majority of wells on the island so far have been
3 developed in the leeward aquifer rather than the
4 windward aquifer?

5 **MR. NANCE:** Vast majority might be a
6 little of an exaggeration, but I can answer you in
7 this way. At the present time, only one well is
8 pumping from the windward aquifer. All of the other
9 actively pumped wells are in the leeward aquifer.

10 There are several wells in the windward
11 aquifer, pre-existing wells in the windward aquifer,
12 that are not used. And they include shaft 2 in
13 Maunalei Valley and the two tunnels that are further
14 up the valley from shaft 2.

15 **CHAIR SCHEUER:** Okay. Are the majority of
16 those wells -- and if you have documents that you
17 can refer to visually, that would help -- are the
18 majority of those wells, however, towards the
19 leeward side of the windward aquifer?

20 What I'm trying to get at -- is it true
21 that well development in the windward aquifer has
22 been largely -- there's been very little well
23 development, and actual nature of potentially
24 productive well sites in the windward aquifer has
25 not been explored?

1 **MR. NANCE:** Well, historically, actually,
2 the development started in Maunalei on the windward
3 side, but and there was a pipeline that went from
4 Maunalei Valley up over the top of the mountain and
5 into Lanai City. It's long since been abandoned. It
6 was actually hard to keep operating and had some
7 difficulties.

8 But today, well 6 actually is pretty close
9 to the boundary between windward and leeward. I
10 could let you know that we've actually located four
11 sites that may ultimately develop on the windward
12 side, and they are further away from the
13 leeward/windward boundary than well 6.

14 **CHAIR SCHEUER:** How far into the windward
15 aquifer are they?

16 **MR. NANCE:** I'd have to have the graphic,
17 but they're probably at least 2,000 to 3,000 feet,
18 maybe, something in that range, 2,000 to 4,000 feet
19 from that boundary.

20 **CHAIR SCHEUER:** But the overall dimensions
21 of the windward aquifer are --

22 **MR. NANCE:** Much bigger than that.

23 **CHAIR SCHEUER:** Okay.

24 **MR. NANCE:** Yeah.

25 **CHAIR SCHEUER:** So what are -- what are

1 some of the -- if sustainable yield is to be
2 reached, according to the water commission itself,
3 what are some of the assumptions that have to be met
4 for us to be able to successfully pump up to
5 sustainable yield?

6 **MR. NANCE:** I'm not sure I understand your
7 question. Could you try to rephrase it a different
8 way?

9 **CHAIR SCHEUER:** In the state water
10 resources protection plan, which sets sustainable
11 yield, and which notes that they calculate
12 sustainable yield on a number of assumptions,
13 including that everything is a basal aquifer, they
14 also state a number of assumptions that have to be
15 met if the sustainable yield number can actually be
16 pumped to. Can you recount some of those for the
17 commission?

18 **MR. NANCE:** I'm not actually familiar with
19 it. I could tell you how I would look at it is the
20 response of water levels to pumping will tell you
21 where you're at in terms of reaching or not reaching
22 a sustainable yield.

23 And you also need to know that this --
24 generalizations about leeward and windward are
25 pretty misleading, actually, because all of the

1 wells tap into separate groundwater compartments
2 that have very little response to the compartments
3 next to them.

4 I've chased through the records. Wells 4
5 and 5 had similar water levels when they were
6 originally developed in the early '50s. They don't
7 know. The only time I've actually been able to say
8 is there an effect pumping one compartment to the
9 other is that testing that I did with well 2 and
10 shaft 3, which are basically adjacent to each other.

11 So you're talking about wells that located
12 in leeward, located in windward, but they're really
13 in a compartment bounded by dikes and of no
14 influence of one or the other.

15 So if you look at any well in a particular
16 compartment that used to be able to deliver, let's
17 say, 200,000 gallons a day with a stable water
18 level, and all of a sudden that water level is in
19 decline and the only way you can stop it is to
20 reduce the pumpage, so it's -- not to say it's far
21 more complicated than this broad generalization of
22 three windward, three leeward. It's really going to
23 be a compartment-by-compartment response to pumping.

24 **CHAIR SCHEUER:** So, yeah, I couldn't agree
25 with you more. So thank you for that.

1 So my concern with the statement in the EA
2 that simply says, you know what, sustainable yield
3 is three here on this side and three on that side,
4 and therefore, we're not going to get near
5 sustainable yield, and therefore, there's no
6 significant impact, is actually not necessarily
7 reflected of hydrologic reality on the island.
8 That's my summary of what you just said. Is that a
9 fair statement?

10 **MR. NANCE:** Yeah. I would guess. You know,
11 it's really rather than leeward versus windward,
12 it's well compartment versus well compartment. And
13 the realities are that if, for example, this
14 projected decades-out reduction and sustainable
15 yield, that will be reflected in the water levels
16 pumped compartment-by-compartment.

17 And that, at some point in time, may
18 dictate going to develop those four sites we've
19 located on the windward side to bring water to the
20 leeward to meet the demand, because recharge is less
21 and the wells that used to be able to produce X MGD
22 or X-hundred thousand gallons a day with a stable
23 water level are now unable to do that.

24 So that water level response, compartment-
25 by-compartment, well-by-well, will dictate going

1 forward what you can and can't do.

2 **CHAIR SCHEUER:** So what do you recommend
3 to this body, the commission, who has to make
4 decisions about whether or not to make a finding of
5 no significant impact, when if we focus -- and I
6 realize, Tom, your testimony is solely focused on
7 the continued sustainability of wells, not any
8 ecological effects associated with pumping or
9 anything else.

10 **MR. NANCE:** Right.

11 **CHAIR SCHEUER:** But can we continue to
12 pump these wells successfully if the geology and
13 hydrology of Lanai is such that it really is
14 dependent on the particular responses in these
15 different compartments, and yet the data that's been
16 presented us in the FEA is only on this broad level?
17 How do we make reliable findings about whether or
18 not there is potentially a significant impact from
19 the proposed development, particular thinking about
20 it in the context of overall development of Lanai?

21 **MR. NANCE:** Okay. I don't want to go to
22 the overall development, because I don't know what
23 they have in mind. But from my perspective when I
24 say it will not adversely impact the aquifer, I'm
25 basing that on the fact that the site I'm

1 recommending is almost certainly in a different
2 compartment than well 2 to the southeast of it or
3 well 3 to the northwest of it, so that it can be
4 pumped without adversely impacting the yield of well
5 2 or well 3.

6 And that's the context in which I'm saying
7 it's not going to impair the aquifer. It's going to
8 be drawing from an individual compartment that I'm
9 assuming will not be the compartment tapped by well
10 2 or by well 3.

11 **CHAIR SCHEUER:** And again, your testimony
12 is based on the water demands estimated by Mr.
13 Kawahara and Akinaka; correct? Not an application of
14 6,000 gallons a day to the 200 acres, so an overall
15 water demand of 1.2 million gallons a day; is that
16 correct?

17 **MR. NANCE:** That is correct. Yes.

18 **CHAIR SCHEUER:** Okay. So last thing I'll
19 ask for you is just -- and just so we have it clear
20 on the record, so when you read the water resources
21 protection plan, it says you can reach sustainable
22 yield for any given area assuming it's all basal,
23 which we know is not correct on this island, right -
24 - that there's these compartments; that if pumping
25 is evenly spaced; that the wells are evenly

1 distributed through the entire aquifer area; that
2 they're to the same depth and pumping at the same
3 rate, are among the assumptions that have to be met
4 if sustainable yield is going to be fully met.

5 That's according to the water commission.

6 If you've read the water resources
7 protection plan, those -- I guess you could confirm
8 that those are not new assumptions to you and how
9 the state could --

10 **MR. NANCE:** They're not new, but it's far-
11 fetched that you can actually achieve that. But,
12 yes.

13 **CHAIR SCHEUER:** So really through this
14 body in this instance and perhaps going forward,
15 really shouldn't be relying so much on whether or
16 not we're above or below sustainable yield in order
17 to make determinations about impact.

18 **MR. NANCE:** Well, there's a physical
19 reality of is there or is there not, and there's
20 this regulatory issue of whether there's an impact
21 or not. Obviously, the additional pumpage of the new
22 well will increase the total pumpage of the leeward
23 aquifer, and the water commission is regulating it
24 by that single number.

25 But the field reality is if we are

1 continuing to lose water levels pumping at the same
2 rate we used to be able to, it's probably because
3 the long-term recharge of the aquifer isn't what it
4 used to be, and we need to start thinking about
5 going to the windward side and developing wells on
6 that side and reduce what we're pumping on the
7 leeward side in response to the change in long-term
8 recharge.

9 **CHAIR SCHEUER:** Okay. The last question I
10 have is can you anticipate if we needed to go into
11 the windward aquifer those few thousand feet in -- I
12 don't know necessarily the terrain, but could there
13 be -- is there likely, just in your professional
14 opinion, in the development of those well sites,
15 that there might be environmental impacts in having
16 to develop new wells in the windward aquifer farther
17 in?

18 **MR. NANCE:** I wouldn't think so. I'm the
19 one who actually selected those locations, and did
20 so in response to what was happening on the leeward
21 side and getting sufficiently into the windward
22 aquifer, and there actually happens to be a whole
23 bunch of dirt roads in that forested area, so the
24 sites are picked out on roadways and easements
25 created already to get the water to the leeward

1 side.

2 So I don't expect, other than moving
3 pumpage to the windward aquifer, that we're going to
4 see a change in -- as an environmental impact.

5 **CHAIR SCHEUER:** Okay. I was specifically
6 referring to not knowing the terrain that you're
7 referring to, whether there's roads or utilities or
8 other things that would have to go in in order to be
9 able to develop farther into the windward aquifer.

10 **MR. NANCE:** Yeah. All four sites on dirt
11 roads that exist, but there's, other than that, no
12 utilities whatsoever. So we would be putting power
13 lines and pipelines in these roads to get it back to
14 the leeward side.

15 **CHAIR SCHEUER:** Okay. And you're not
16 familiar -- or are you familiar with the United
17 States Geological Survey study that was referenced
18 in testimony today?

19 **MR. NANCE:** I haven't had a chance to look
20 at it. I've been busy with pump tests and all this
21 stuff in the last 10 or 12 days in a row, so I
22 haven't had a chance to review it. I understand that
23 they made a presentation, but the report with all
24 the details is not yet available. I'm not familiar
25 enough to talk about it.

1 **CHAIR SCHEUER:** Okay. I don't have
2 anything further right now, Mr. Chipchase and Mr.
3 Nance. Thank you very much. I'm going to let my
4 fellow commissioners ask questions.

5 Commissioner Giovanni?

6 **COMMISSIONER GIOVANNI:** Thank you, Chair.
7 And thank you for going first. That was very helpful
8 and will shorten my questions.

9 I just want to revisit the responses by
10 Ms. Dancil to your initial inquiry regarding the --
11 I think it's approximately 145 acres that have been
12 identified for the renewable energy plus the
13 relocation of the concrete and asphalt plants, which
14 in total have very, very small water consumption.

15 And, Ms. Dancil, if I can ask you to
16 reaffirm your commitment, based on my understanding
17 of -- and I'll say it, what my understanding is now
18 -- that the immediate expectation for the water
19 demand for that 145 acres is very low, much lower
20 than the standard, the planning standard for Maui
21 County, and that when this project comes before this
22 commission, you would be willing to commit to a
23 condition that limits the water consumption on that
24 145 so-called acres permanently at that level; is
25 that correct?

1 **DR. DANCIL:** That is correct.

2 **COMMISSIONER GIOVANNI:** Okay. Thank you
3 for that. So as a corollary to that, you did mention
4 that you have set aside 127 acres for renewable
5 energy projects, but depending on the technology of
6 use -- and you are correct; it may be the full
7 amount or it may be considerably less -- it's
8 possible that as much as 50 acres that you have set
9 aside for renewable energy will be freed up for
10 other uses. Is it your intent that those other uses
11 will then not have any water demand any greater than
12 the renewable energy that might possibly go there?

13 **DR. DANCIL:** Yes, Commissioner, you are
14 correct. There could potentially be approximately an
15 additional 50 acres that will be used, depending on
16 the technology that is selected in the MECO RFP --
17 or the awardee. However, we do have a state goal to
18 get to 100 percent RPS by 2045.

19 If you look at a typical solar facility,
20 it's a 25-year PPA. We are well within 2045. So we
21 do need to make sure that we do have enough land
22 available. And those 50 acres could potentially be
23 used for additional renewable technologies to help
24 meet the state's goal of 100 percent by 2045.

25 **COMMISSIONER GIOVANNI:** Thank you for

1 that.

2 Mr. Chipchase, I think it's a related
3 question, and I don't know who is the right person
4 to respond from your team. But in terms of the
5 potential uses for the site, Mr. Matsumoto went
6 through a general description of the potential uses,
7 industrial uses, for the 200 acres near term and
8 long term.

9 And one thing that was missing in my
10 expectation was whether or not there might be any
11 greenhouses for food production on this 200 acres.
12 Is it then explicitly identified that none of these
13 200 acres would be used for that purpose?

14 **DR. DANCIL:** Commissioner, I can answer
15 that question, if that's okay.

16 Right across the street from these 200
17 acres on the other side of Kaumalapau, we do have a
18 facility. I'm not sure if you're familiar with our
19 agricultural group. They are Sensei Ag. Sensei Farms
20 is located there.

21 We have approximately six greenhouses in
22 full production, delivering food to all islands.
23 First and foremost, we do deliver greens and
24 tomatoes to Lanai. That's our primary thing, again,
25 feeding our island and our residents first. And we

1 started shipping out food from there. Approximately
2 100,000 square-foot under greenhouse hydroponic
3 space.

4 So this is a significant agriculture
5 endeavor with very minimal impacts on resources,
6 significantly less water than if it was used outside
7 in open air. We also power these greenhouses with
8 photovoltaic and battery sites, so it is off grid.
9 So again, significant less impact on natural
10 resources.

11 That's across the street. There will be no
12 greenhouses in this area.

13 **COMMISSIONER GIOVANNI:** Your final comment
14 was really the answer to my question. I am familiar
15 with that, and I was wondering if you were going to
16 expand into these 200 acres, and you said no;
17 correct?

18 **DR. DANCIL:** That is correct.

19 **COMMISSIONER GIOVANNI:** Thank you. I'll
20 hold my further questions until later. Thank you,
21 Chair.

22 **CHAIR SCHEUER:** Commissioners, questions
23 for any of the witnesses?

24 Commissioner Wong?

25 **COMMISSIONER WONG:** Thank you, Chair.

1 Several questions. Mr. Chipchase, you know
2 when it was shown on the screen about all the
3 responding state agencies and other agencies such as
4 MECO, was the County of Maui also responding,
5 especially the fire department? Because there's only
6 one fire station there.

7 I was wondering if they responded that
8 they have enough capability in case the industrial
9 area was, you know, get on fire.

10 **MR. CHIPCHASE:** Good question,
11 Commissioner, and I brought Ms. Ng back to answer
12 it.

13 **MS. NG:** Thank you, Commissioner. So not
14 shown on that slide, the fire department got their
15 comment in just after the 30-day comment period, or
16 several days after the 30-day comment period, so
17 it's not included in the slide.

18 But we did receive a comment letter from
19 the fire department basically saying they reserve
20 the right to comment during the building permit
21 review process, but did not have any comments on the
22 second draft EA. And so they did not raise those
23 concerns, and we have separately acknowledged the
24 response from the -- or the comment from the fire
25 department.

1 **COMMISSIONER WONG:** And also the police
2 department?

3 **MS. NG:** The police department did comment
4 on the second draft EA.

5 **COMMISSIONER WONG:** Was there no problems
6 or what -- just some general, you know, you can take
7 it. What did they say, since there's only --

8 **MS. NG:** Yeah. Just consulting my notes
9 here, and the police department have no objections.

10 **COMMISSIONER WONG:** Okay. Thank you.
11 That's all for that portion of the --

12 The other question I have, and I don't
13 know if Mr. Kawahara or someone -- it's about, you
14 know, we're talking about the water issue. Was there
15 any issue regarding recycling the water or gray
16 water or, you know, in the industrial area instead
17 of using fresh water or from waters from the cell --
18 wells, I mean.

19 **MR. CHIPCHASE:** We'll have Mr. Kawahara
20 back, and he shall do his best.

21 **MR. KAWAHARA:** Thank you, Commissioner,
22 for the question. If I understand correctly, you're
23 asking about any use of the recycling water?

24 **COMMISSIONER WONG:** Yes. If the industrial
25 complex that we are -- in front of us, the EA -- was

1 there any statements regarding reuse of any water
2 instead of using the wells?

3 **MR. KAWAHARA:** I guess in our area, we did
4 the water and wastewater master plans. Based on the
5 limited amount of water usage and the individual
6 wastewater systems as related in the wastewater
7 master plan, it would depend.

8 A lot of it depends on the constituents of
9 the wastewater and what kind of industrial uses. As
10 mentioned in my introduction, I spent 10 years at
11 the City and County of Honolulu wastewater
12 department, and I was in charge of the pre-treatment
13 program.

14 So we looked at industrial uses, and
15 depending on the chemical constituents in the
16 effluent would determine whether or not it's
17 applicable for treatment. So there is, you know,
18 some unknowns, but there is a limited amount of
19 wastewater being produced, and I wouldn't at this
20 time know if it would be reasonable to try and look
21 at reuse of that smaller quantities.

22 **COMMISSIONER WONG:** Okay. So the other
23 question I have, I guess, it's -- you know, because
24 it's going to be it's industrial, light and heavy
25 industry complex. You know, a lot of it is going to

1 be cement and, you know, building and all that
2 stuff. What's going to happen to, I mean, all that
3 building supplies that's being used or -- where is
4 the, you know, construction waste going to go? Just
5 wondering, just for the sake of wondering.

6 **MR. CHIPCHASE:** Yeah. No, well, I don't
7 know that Mr. Kawahara's the right witness for that.
8 I'll look around my room. And you get Dr. Dancil
9 back.

10 **COMMISSIONER WONG:** Thank you, Dr. Dancil.
11 Thank you, Mr. Kawahara, for your
12 explanation.

13 **MR. KAWAHARA:** You're welcome.

14 **DR. DANCIL:** So basically, right now what
15 we do is try to recycle as much of the concrete as
16 we can. We separate out the parts that we can't use
17 and ship them off-island. But we try to reuse as
18 much as we can on-island.

19 For example, the rebar is separated, and
20 we don't use the rebar again, and we reuse the
21 concrete. So that's why there's a lot of stuff
22 piling, going on in the area as well.

23 **MR. CHIPCHASE:** And just to be clear, Dr.
24 Dancil, there's an existing concrete plant.

25 **DR. DANCIL:** Correct.

1 **MR. CHIPCHASE:** And we're relocating that
2 concrete plant to the Miki area.

3 **DR. DANCIL:** Correct. Literally, right
4 next door.

5 ___: So it's not a new use.

6 **DR. DANCIL:** No, it's not a new use. It's
7 an existing use.

8 **COMMISSIONER WONG:** Okay. Thank you, Mr.
9 Chipchase.

10 Thank you, Dr. Dancil.

11 Thank you, Chair.

12 **CHAIR SCHEUER:** Thank you, Commissioner
13 Wong.

14 Commissioner Giovanni?

15 **COMMISSIONER GIOVANNI:** Thank you, Chair.

16 So while Ms. Dancil's in the chair, I'd
17 like to express a little bit of frustration that
18 this commission has, not in you, Ms. Dancil, but in
19 general.

20 And it has to do with your forecasts of
21 when the renewable energy projects will be coming
22 online. I think you said as target April 2025, and
23 hopefully in December 2024.

24 I just want to note for the record that
25 this commission has entertained a variety of solar

1 energy projects, all of which have come before this
2 commission with great urgency because we got to meet
3 these schedules, only to find out that these
4 projects, several of which, mostly on O'ahu and
5 other neighbor islands, have been significantly
6 delayed, to our frustration.

7 So we just encourage you to be very
8 practical and reasonable when you put forth these
9 forecasts of when these projects might be coming
10 online, because it is important in our overall
11 planning sequence. More comment than a question, Ms.
12 Dancil.

13 **MS. DANCIL:** Thank you.

14 **CHAIR SCHEUER:** Commissioners?

15 Commissioner Okuda? Followed by
16 Commissioner Cabral.

17 **COMMISSIONER OKUDA:** Thank you very much,
18 Mr. Chair.

19 You know, this question might be able to
20 be answered by Mr. Chipchase or whoever he would
21 like to call, but I don't mind Mr. Chipchase
22 answering some of these questions.

23 Is it true or not true that the Hawaii
24 Supreme Court has said or held that if a project is
25 really just one step or an increment to fulfill a

1 larger plan or larger scheme, we as the Land Use
2 Commission have to evaluate the larger plan or the
3 larger scheme, and we cannot just simply focus on
4 the increment or the one step? Is that a fair
5 statement of the law?

6 **MR. CHIPCHASE:** I would say not exactly,
7 Commissioner. You know, if we looked at the Kilakila
8 'O Haleakala case, for example, you certainly get
9 into this idea of is there improper segmentation.
10 But remember, in that case, the question was whether
11 this master plan should have also considered the
12 telescope project in evaluating its impact. The
13 master plan was necessary to implement the telescope
14 project, but the court held that the master plan was
15 appropriately considered by itself without the
16 telescope project also being considered.

17 And the reason the court said that is
18 because the master plan had independent utility, but
19 it looked at all of the area, not merely the
20 telescope portion of it. And that independent
21 utility meant that it was appropriate to consider
22 just the master plan, and they did not also need to
23 consider the telescope project. In other words, it
24 wasn't improper segmentation.

25 If we translate that here to this, we see

1 that what this project is doing is implementing the
2 community plan. So the community plan has already
3 planned for this use, this 200 acres in this site.
4 That's what the community has decided through those
5 planning efforts, and the county has decided through
6 those planning efforts is appropriate for the island
7 of Lanai.

8 And so this project and the EA that
9 precedes it is implementing that, and in that way
10 and many others, it has that independent utility
11 that the court in the 'O Haleakala case recognized.

12 **COMMISSIONER OKUDA:** But it's true that
13 there are at least two Hawaii Supreme Court cases
14 where you could conclude the opposite; correct?

15 **MR. CHIPCHASE:** I wouldn't say that
16 either, commissioner. You know, you'd mentioned the
17 Superferry case.

18 The problem with the Superferry case is
19 that they studied only the impact of improving the
20 pier, but improving the pier was for the Superferry.
21 And so in that sense, you needed to consider all of
22 the project. It was really one project. That is,
23 obviously, would be --

24 The analogy there would be if in studying
25 this project, we looked only at the trigger, right?

1 In that case, it looked only at the trigger,
2 repairing the pier, improving the pier.

3 So if we looked only at our trigger, the
4 intersection, and we said, okay, well, does this
5 intersection have any significant impact, you'd say
6 no, you're entitled to an exemption, probably,
7 because you're just doing basic roadway work, you're
8 making improvement to an existing roadway.

9 We didn't do that, obviously. We used that
10 trigger, and we considered the entirety of the
11 project, and so in that way, completely in line with
12 the Superferry case.

13 **COMMISSIONER OKUDA:** Okay. Just so that
14 we're clear, when we say Superferry case, we're all
15 talking about the case titled Sierra Club versus
16 Department of Transportation 115 HA 299, the 2007
17 case; correct?

18 **MR. CHIPCHASE:** You're always so much
19 better with case citations than I am. I got the
20 names. I don't have the case citation, but I presume
21 that's true.

22 **COMMISSIONER OKUDA:** Okay. But in that
23 case, the Supreme Court looked at the fact that,
24 well, the exemption was based on an argument that
25 we're only doing work at the pier, and so, you know,

1 whatever else might happen with the Superferry, that
2 doesn't have to be considered.

3 But in the end the Supreme Court said you
4 got to look at the big picture. Is that a fair
5 statement of what took place in that case?

6 **MR. CHIPCHASE:** I think you and I are on
7 the same page there. That's exactly what I
8 summarized. So the analogy would be if we looked
9 only at the intersection here, improving the
10 intersection, that's the only state land component;
11 right? The only trigger here is the intersection.

12 So if we looked only at the intersection,
13 you might say, oh, gosh, you have a Superferry
14 problem, because you didn't look at the rest of the
15 project. Here, we've looked at the rest of the
16 project, the entirety of the 200 acres, the planned
17 uses, the impacts to flora, fauna, archaeological
18 resources, water resources, wastewater. We did all
19 of that not just for the intersection, but for the
20 entire project. And so we're squarely in line with
21 Superferry's dictates.

22 **COMMISSIONER OKUDA:** Yeah. And, Mr.
23 Chipchase, I don't disagree with the thoroughness of
24 your work, which I think, at least for me
25 personally, I find a lot of respect for, because

1 you're very thorough.

2 And let me ask this question, which is
3 related to that. Since you have done, and your team
4 have done, this very thorough job, how much more
5 work would it be to have to complete an
6 environmental impact statement?

7 **MR. CHIPCHASE:** Well, I guess I would
8 answer that in two parts, Commissioner. The first
9 would there's a lot of work that goes into an EIS,
10 and so it would be considerable more time and
11 considerable more work.

12 The second part would be that it's not a
13 question of how much more work it is; right? That's
14 not the tilt between an EA and an EIS.

15 The tilt is are there anticipated
16 significant impacts? And what you've heard from that
17 thorough evaluation from all the experts -- and I
18 could bring on the other guys that we have, from
19 Munekiyo Hiraga, who prepared the report, and, you
20 know, as you heard from Tess, has prepared many of
21 these reports over her own career and the career of
22 her firm, in particular -- have determined that
23 there is no significant impact anticipated from this
24 project. So we don't have any indication from all
25 the work that's been done that we tilt over to the

1 EIS, the environmental impact statement that you had
2 mentioned.

3 And without that tilt, there'd be no basis
4 to consider requiring such a statement.

5 **COMMISSIONER OKUDA:** Yeah. And let me ask
6 these couple of questions just so that you know
7 where I'm coming from and you can educate me if I'm
8 coming from the wrong direction; okay?

9 My view is that it's a question of where
10 in the process we are. In other words, the work can
11 be the same, the quality can be the same, but for
12 lack of a better word, the standard of review, if
13 there's a challenge later, is different.

14 You know, you and I as trial lawyers,
15 sometimes it's better to win a case later in the
16 process than early on in the motion to dismiss,
17 because you're more likely get reversed if you win
18 on a motion to dismiss than, you know, later on at
19 summary judgment or at trial.

20 So my question along this line is
21 basically this. How much more time do you predict it
22 would add to your process, your actual development
23 process, if you had to go through with preparation
24 of an environmental impact statement and that
25 procedure or process? How much more time would we

1 add to the situation?

2 **MR. CHIPCHASE:** Commissioner, I'm going to
3 bring over Ms. Ng to answer that question just
4 because it's a technical one involving her
5 expertise. And so I'll let her answer that specific
6 question, and then I will add my comments as well.

7 **COMMISSIONER OKUDA:** Sure.

8 **MS. NG:** Thank you, Commissioner. EIS
9 processes can easily take two, three years, or even
10 longer, depending on the specifics of the case, all
11 the studies that are needed to be done in support of
12 it, comments received, things like that.

13 **MR. CHIPCHASE:** And so then for my
14 commentary, I like the analogy, Commissioner, to --
15 it's hard not to call you Gary. I like the analogy -
16 - just for my own disclosure, one of the first
17 people I ever worked with practicing law was
18 Commissioner Okuda. We were partners or co-teaming
19 on a case years and years ago.

20 The analogy to your motion to dismiss is
21 an interesting one. If I have a claim that has no
22 viable basis under Hawaii law, I will absolutely
23 move to dismiss it, because it should not pass Go;
24 right? That's why we have standards set up in the
25 rules of procedure and developed by the Supreme

1 Court, or interpreted and applied by the Supreme
2 court, to guide us there, to tell us what to do when
3 a claim has no merit. It doesn't state a viable
4 claim in our technical terms.

5 We have the same kind of standards here
6 guiding what we do; right? There are rules, and
7 there's Supreme Court precedent -- we've talked
8 about a couple of them -- that guide what we do and
9 what we should do individually, as experts that I
10 brought before and as the body's deciding these
11 things, is follow those standards, those guides that
12 have been set out.

13 And as we've set out through the experts,
14 when you're implementing a community plan, when the
15 community has already called for that, and when your
16 evaluation considers not only the trigger, but the
17 entirety of that project that you're implementing,
18 and when your experts have looked at it and
19 determined that there is not likely to be a
20 significant impact on all of the different resources
21 and the standards that they have reviewed, you
22 conclude that there's no significant impact, and you
23 issue a FONSI.

24 And you don't think, well, maybe some
25 other path would be safer or better or different.

1 You look at the standards, you look at the reports,
2 and you apply them. And that's what we've done here.

3 **COMMISSIONER OKUDA:** Okay. But would you
4 agree that reasonable minds could differ, for
5 example, on water impacts?

6 Now, I know there's that representation by
7 your client's representative, Dr. Dancil, that water
8 usage will be limited. But we've had cases come
9 before the Land Use Commission where conditions are
10 placed, and then several years down the road, people
11 come to have a condition removed.

12 A recent example was a pedestrian
13 overpass. And so some of us might come to a
14 conclusion that we can't really rely on the
15 permanency of these conditions, and it's better to
16 take a more comprehensive view, for example, of what
17 could be the ultimate water impacts.

18 Would you agree that in this case
19 reasonable minds could differ about whether or not
20 there really is a significant impact from this
21 development?

22 **MR. CHIPCHASE:** No, Commissioner, with
23 respect, I wouldn't agree that reasonable minds
24 could differ.

25 **COMMISSIONER OKUDA:** Okay.

1 **MR. CHIPCHASE:** And if you'll let me just
2 expand momentarily on that, all decisions are
3 evidence based. And the evidence before the
4 commission on this proceeding, this part of the
5 proceeding, is uncontroverted. This is the
6 anticipated use.

7 And we've even gone further than you would
8 need to go in any EA proceeding by committing at
9 this point, rather than at the DBA point, that we
10 would limit our water use to those projections
11 developed by Mr. Kawahara and presented in his
12 report.

13 And so, given that representation, and
14 then given the analysis done by Mr. Nance and Mr.
15 Kawahara both on system capacity and water
16 availability, there would be no basis in the record
17 for determining that there was likely to be a
18 significant impact on water resources.

19 And so, if we go by the evidence, which we
20 have to, and we go by the standards that we have to,
21 I submit that reasonable minds could not differ on
22 the outcome.

23 **COMMISSIONER OKUDA:** Does Lanai company --
24 or does Pulama Lanai or its owner, Mr. Ellison, have
25 a vision for what Lanai is to look like in the

1 future?

2 **MR. CHIPCHASE:** I'm actually going to
3 invite Mr. Matsumoto to come sit and so we can get
4 some record testimony on that to address the
5 question, because I understand where you're coming
6 from. And what you will hear is that there is no
7 overall goal or plan, that this project is not an
8 increment or a phase in any larger project or
9 program.

10 What you will hear is that, as I think you
11 heard earlier, is that the community planning
12 resulted in the determination that Lanai needed an
13 additional 200 acres of industrial use and that this
14 project, this Miki industrial project, is
15 implementing that.

16 The visions of sustainability and
17 diversification are shared by everyone, I'm sure, at
18 this table, our virtual table today, and on many
19 other islands and by many other bodies. But in terms
20 of a program, a goal, those things that our
21 standards talk about, there isn't one. This is
22 implementing the community plan.

23 But I'll turn it over to Mr. Matsumoto to
24 elaborate.

25 **MR. MATSUMOTO:** Thank you.

1 Commissioner, I guess to address your
2 question, you know, we brought this forward. I went
3 through the community plan process, went through all
4 the meetings, was even in the workshop where people
5 could write down their ideas and the things that
6 they wanted, so I'm intimately aware of how this
7 came to be a part of the community plan.

8 And, you know, this is not being inserted
9 because of, you know, some huge master plan or
10 anything like that that we have. This is a need that
11 has been identified by the community. They want
12 these activities out of Lanai City and various other
13 areas of the island and concentrated in one
14 location. And that's simply why we're bringing this
15 forward. And I think we've demonstrated that there
16 already are uses that can be placed in this
17 location.

18 **COMMISSIONER OKUDA:** Yeah. And if I can
19 just ask this question, okay, and I assure you we
20 all are going to make a decision based on the
21 evidence and the law.

22 But -- and I've stated, Mr. Matsumoto,
23 that I find you not only a credible person, but
24 somebody very committed to the island and to our
25 state.

1 Wouldn't it be better that while you have
2 a team, a really competent lawyer like Mr.
3 Chipchase, somebody like you who is born, raised,
4 you know, who's heart is in Lanai, you have this
5 team of people who are clearly committed to the
6 island, and you personally, I think, bring
7 credibility to the process.

8 Would it be better that we don't have a
9 repeat of, like, the Superferry case, where possibly
10 -- and with apologies to my neighbor island friends
11 who may not like the Superferry, but where a good
12 idea gets torpedoed in the end not because of the
13 merits, necessarily, of the project, but because
14 somebody tried to short-circuit and take a shortcut
15 on a process where in fact it really wasn't a
16 shortcut?

17 I mean, would it -- would Pulama Lanai and
18 the people of Lanai really suffer real prejudice if
19 maybe everyone was just a little bit more careful,
20 we were all more careful about the process so that
21 when we get done with this, there's not going to be
22 any type of challenge? And frankly, maybe at that
23 point in time, the entire parcel can be used for
24 urban industrial use with no water restriction?

25 **MR. CHIPCHASE:** I'll start and then, of

1 course, invite Mr. Matsumoto to finish.

2 I mean, in near-term prejudice, obviously,
3 there's near-term prejudice. There's near-term
4 prejudice in being able to locate the solar
5 facility. As Commissioner Giovanni said, you guys
6 have approved many of those, and they've been
7 delayed.

8 You have here a party who is prepared to
9 go forward and has the intention and the resources
10 to go forward. So obviously, there's a prejudice to
11 everybody who continues to pay higher rates, the
12 state whose goals continue to be deferred, and to,
13 you know, the environment that continues to be
14 impacted by fossil fuels.

15 There's obviously an impact in other
16 direct ways in terms of relocating these services
17 and in terms of what you heard from the public
18 testimony, the need today to locate industrial uses
19 within this area. So obviously, commissioner,
20 there's prejudice that would be -- is established on
21 the record before you.

22 But even more critically than that, as you
23 talked about the process, there's prejudice to the
24 process, because that's not the process that's set
25 out in the rules or the law. The process that's set

1 out in the rules or the law is the one that we
2 follow. No short circuits, no shortcuts, no, you
3 know, clever things as were done in the Superferry,
4 following the process to the letter, and indeed,
5 going through the EA process effectively twice, with
6 two full rounds of comments on the EA.

7 Having done that, disregarding the process
8 and implementing a different one is prejudicial to
9 the rules and to the law and to the standards that
10 we follow.

11 But I'll invite Mr. Matsumoto to comment,
12 if he has any.

13 **CHAIR SCHEUER:** And then after this, I'm
14 going to ask if, Commissioner Okuda, if you have
15 more questions, we'll take a pause --

16 **COMMISSIONER OKUDA:** No.

17 **CHAIR SCHEUER:** -- and let Commissioner
18 Cabral go.

19 **MR. MATSUMOTO:** Yeah, just quickly to add,
20 Commissioner Okuda, you know, I guess your comment
21 about how more time. The community plan started six
22 months after I started my job 10 years ago. So for
23 me, this is a 10-year journey that allows us to now
24 be before you with this request. So this is not a
25 really quick or not well-considered project.

1 **COMMISSIONER OKUDA:** Okay. Thank you very
2 much.

3 Thank you, Chair.

4 Thank you, Mr. Matsumoto.

5 Thank you, Mr. Chipchase.

6 I have no further questions.

7 **CHAIR SCHEUER:** Thank you.

8 Commissioner Cabral? And then I'm just
9 going to signal. I think I actually do have a couple
10 of follow-ups as well. I don't know if others do.

11 Commissioner Cabral?

12 **COMMISSIONER CABRAL:** I, hopefully, will
13 be quick.

14 Thank you very much for all of this great
15 information. I have a, hopefully, simple question
16 for the young lady that made the -- had the comments
17 earlier that did the cultural assessment. So if I
18 could --

19 **CHAIR SCHEUER:** Dr. Watson.

20 **COMMISSIONER CABRAL:** Okay. Thank you.

21 **MR. CHIPCHASE:** Yeah, we were all
22 scrambling to see which young lady you meant,
23 Commissioner. Dr. Watson and I are about the same
24 age, so I will take that to mean that I'm young.

25 **CHAIR SCHEUER:** I don't believe that was

1 among the qualifications you offered as a witness.

2 **COMMISSIONER CABRAL:** I think I'm grayer
3 than anyone at this point, so I can call everybody
4 young at this point.

5 Yes. Thank you, Dr. Watson. This is really
6 a general question. I heard your comments on how you
7 did the cultural assessment, and you found no items
8 or anything of concern in that geographical area
9 that our subject property is that had anything to do
10 with any Hawaiian cultural activities or any
11 artifacts or anything of that nature.

12 Because the land has been what appeared
13 from your photograph of the old car and that -- and
14 pineapple for a long time -- and I lived on Molokai
15 for quite a few years, so when they had pineapple
16 and I worked at a hotel and used to go pick my own
17 pineapple.

18 My question is were there other type of
19 activities, other type of artifacts or other types
20 of cultural activities from other types of groups of
21 people that may not have been Hawaiian in nature in
22 that land area? And are you even supposed to make
23 notations of that?

24 I'm just feeling like this is a really big
25 question or a big concept, you know. I feel we're

1 going to just -- if it's not Hawaiian, it's okay to
2 bulldoze over it, but yet we have so many wonderful
3 -- so much history and so much depth of other types
4 of groups of people, and I would hate to not
5 recognize that and preserve that, if possible.

6 So what -- did you find anything else of
7 interest?

8 **DR. WATSON:** That's an excellent question,
9 and thank you for asking it.

10 So just kind of for everyone, the
11 background. Under HRS 6E, which is the state
12 historic preservation laws, it's a criterion E that
13 not only covers Native Hawaiians, but other ethnic
14 groups. Actually, the role is to look at not only
15 Native Hawaiian practices, but any particular
16 activities for other cultural groups.

17 We certainly have found that on other
18 parts of Lanai and on other projects. There were no
19 -- so how we distinguish historic sites is pre-
20 contact are traditional. Post-contact over 50 years
21 old are historic. There were no significant historic
22 properties either.

23 So not only were there -- are there no
24 traditional pre-contact features or sites left,
25 there is nothing from a post-contact plantation,

1 industrial farming as well, that was identified in
2 this parcel.

3 And we do absolutely look at, through our
4 relationship and work with the Lanai Culture and
5 Heritage Center, which is not only focused on
6 traditional Native Hawaiian but, of course,
7 plantation-era historic activities. There were no
8 practices or customs identified from other ethnic
9 groups as well.

10 So it's an excellent question. We do
11 always look for that, and I appreciate you asking
12 it.

13 **COMMISSIONER CABRAL:** Appreciate the
14 answer, because you just -- your answer was there
15 was no just Hawaiian cultural activities, and I
16 thought, well, what about everybody else? So thank
17 you very much for your looking for it and for the
18 law that protects everyone. Thank you.

19 **DR. WATSON:** Thank you so much. Any other
20 questions while I'm sitting here? I was, of course,
21 eating a snack bar so, you know, it was perfect. Any
22 other questions?

23 **CHAIR SCHEUER:** Any other questions for
24 Dr. Watson? Are there any other questions
25 commissioners? I have one follow-up on water issues

1 -- well, a couple -- and then one follow-up on other
2 things.

3 Commissioner Giovanni?

4 **COMMISSIONER GIOVANNI:** I have a question
5 for Ms. Ng, I believe.

6 **CHAIR SCHEUER:** Okay.

7 **COMMISSIONER GIOVANNI:** Ms. Ng, I found
8 the EA to be generally very good, except I was a
9 little surprised about the depth by which the
10 greenhouse gas impacts were assessed. Could you
11 elaborate just a bit on the scope of that analysis
12 that you performed for the EA on greenhouse gas
13 effects and climate change?

14 **MS. NG:** Sure. As we've been discussing, a
15 significant portion of the acreage for the project
16 will be for renewable energy, which reduces fossil
17 fuel use. And so in that sense, you know, greenhouse
18 impacts are no significant impact -- in fact, a
19 positive impact, right, with reduction of fossil
20 fuel use.

21 **COMMISSIONER GIOVANNI:** Could you
22 quantify? Was any of your analysis -- was any net
23 benefit analysis included? I understand that your
24 conclusion is that there's no net negative impact,
25 but I would imagine that there's quite a positive

1 impact, if you did a quantified analysis. I just
2 wondered if you did one.

3 **MR. CHIPCHASE:** I'm going to actually
4 invite Dr. Dancil back to address that question more
5 completely.

6 **DR. DANCIL:** Mahalo, Commissioner
7 Giovanni, for that excellent question.

8 We did not include it in here, but we will
9 definitely include it as required in the DBA.
10 However, I did do a calculation as some back-up
11 work. So if you look at the amount of renewable
12 energy that MECO is looking to procure, it's about
13 35,800 megawatt hours annually.

14 If you use the EPA calculator, which is
15 publicly available, to do kind of a high-level quick
16 and dirty in terms of what the greenhouse gas, it's
17 basically looking at equivalence of reducing 56,967
18 barrels of oil.

19 And I can pull up, if you bear with me, my
20 iSite on the number in regards to metric tons.
21 25,371 metric tons of carbon dioxide equivalence is
22 what it's offsetting. So as you mentioned, it does
23 have a positive impact.

24 **COMMISSIONER GIOVANNI:** That's what I
25 expected it to be. And thank you very much, Ms.

1 Dancil, for doing the math for us.

2 Mr. Chipchase, let me encourage you not
3 only for the instant docket, but for all future
4 dockets, that an environmental analysis of the
5 greenhouse gas effects be quantified and put forth,
6 whether it be in an EA or EIS, because especially
7 when you have a situation like this, when it's
8 strongly net benefit, it should be taken into
9 account and not just expressed as a no negative
10 impact. Thank you.

11 **MR. CHIPCHASE:** Understood. And I
12 appreciate that encouragement, Commissioner. I would
13 -- I will allow the commission a little insight. We
14 did discuss this issue extensively, what to include
15 in the EA, and based on the existing standards for
16 an EA, we put the information that is before you in
17 this EA, so we followed the standards, anticipating
18 that to follow the commission's rule for the DBA, we
19 would need to include a more detailed analysis.

20 But notwithstanding what standards may be,
21 your point is well taken.

22 **COMMISSIONER GIOVANNI:** Yeah. The rules
23 that have been adopted for the Land Use Commission,
24 we give it much more serious consideration for
25 greenhouse gas effects than we did historically. I

1 encourage you to change along with us.

2 **MR. CHIPCHASE:** Very good.

3 **CHAIR SCHEUER:** Commissioners, anything
4 further?

5 So I have a few more. Let me take them in
6 this order. First, Mr. Chipchase, you can direct me
7 to whoever is best to respond. How many acres of
8 land currently in Lanai City will now be freed up if
9 this DBA is successful?

10 **MR. CHIPCHASE:** I'll invite Dr. Dancil
11 back. And I think it would be two parts. One would
12 be the uses that are being relocated, and the second
13 would be the industrial uses that we know are spread
14 around maybe in areas not authorized for them that
15 need to find a home, as you heard from the
16 testifiers today.

17 **DR. DANCIL:** Thank you, Chair Dr. Scheuer
18 for that question.

19 So within Lanai City, these types of -- as
20 noted by some of the public comments, there are some
21 activities that are currently being done in
22 residential areas.

23 For example, I think Ms. Preza did talk
24 about if you hit an axis deer and you need to fix
25 your car or something like that, there are some of

1 those activities going on right now in residential
2 areas. So it's not necessarily acres within the
3 residential area in Lanai City. It's more uses. And
4 those are obviously more important in the Miki Basin
5 area, as well as the example that she did with the
6 veterinarian that comes and parks in the parking
7 lot.

8 However, other scattered areas around
9 Lanai, the asphalt plant as well as the concrete
10 crushing operations will be relocated, and it's
11 approximately the 26 acres, as it's currently noted,
12 that will be relocated.

13 **CHAIR SCHEUER:** And those uses are
14 currently in the urban district that located
15 elsewhere?

16 **DR. DANCIL:** Yes. Right next by the Miki
17 20 is where the concrete facility is, and then we do
18 have the asphalt plant and the Manele concrete down
19 near Manele.

20 **CHAIR SCHEUER:** So what are the lands that
21 are freed up from these uses going to be used for?

22 **DR. DANCIL:** We don't have any plans right
23 now to use them.

24 **CHAIR SCHEUER:** But they're in the urban
25 district.

1 **DR. DANCIL:** In terms of -- so the Miki 20
2 has been district --

3 Is that the right term?

4 **MR. CHIPCHASE:** Redistricted.

5 **DR. DANCIL:** Redistricted to urban. Yes,
6 just the Miki 20. The asphalt 20 is down near the
7 Manele project district, which is part of the Manele
8 district project area.

9 **CHAIR SCHEUER:** So I guess I'm just --
10 because it's -- I don't believe, and maybe Ms. Ng
11 could confirm, but any of the future uses of these
12 freed-up lands is not considered in the EA.

13 **DR. DANCIL:** It is not considered, and
14 there are no current plans right now.

15 **CHAIR SCHEUER:** So just an observation,
16 there is a gap, though, that to say, like, oh, we
17 need the urban land, and yet we're freeing up urban
18 land, but we don't actually have plans for it. It
19 sort of is a gap in the narrative for me. And maybe
20 it my limitations on what I understand.

21 **MR. CHIPCHASE:** Yeah. So I think, Chair,
22 you know, as you've heard, it was two parts. One is
23 the community plan determined that these industrial
24 uses were needed. But the second is that we're
25 consolidating. So we're bringing uses that are

1 currently spread, at least in part, on other parts
2 of the island and consolidating them.

3 So the request wasn't that I need to
4 locate an asphalt plant. The planned us is we would
5 like to locate this asphalt plant, to consolidate it
6 so that we have a more consolidated, confined
7 industrial area, which is consistent with good
8 planning, consistent with what the community plan
9 has called for, and has a lower environmental impact
10 and footprint, because now you're not hauling from
11 larger distances and having to move between
12 different places.

13 **CHAIR SCHEUER:** I do understand those
14 things. My questions really are centered around,
15 though, however, we now have these other lands that
16 are available for uses, and we often hear about how
17 we need lands for various uses. It just seems to be
18 a gap.

19 So with that said, I just want to add two
20 more things about water. One is I just want any of
21 your witnesses to confirm, so it'll be clear on the
22 record, my understanding, which I believe is
23 correct, is that when the state sets sustainable
24 yields, which they last set in the last version of
25 the water resources protection plan, two things.

1 One is that if all other things are held
2 equal, a reduction in recharge will lead to a
3 reduction in sustainable yield.

4 And second, that while the state water
5 resources protection plan acknowledges that climate
6 change is occurring, it has not incorporated any
7 climate change projections into any of the state's
8 sustainable yield calculations, meaning the current
9 sustainable yield calculation of 3 million gallons a
10 day for the leeward aquifer and 3 million gallons a
11 day for the windward aquifer on Lanai may indeed go
12 down significantly if recharge is reduced.

13 **MR. CHIPCHASE:** I don't know that I have
14 any witness who could make those statements, Chair.
15 But if Mr. Nance has anything to share, I invite him
16 to comment. Otherwise -- there he is. Where he went?
17 There he is.

18 **MR. NANCE:** Jonathan, I don't disagree
19 with your statements, actually. If the recharge
20 actually is diminished significantly, it will
21 ultimately require the sustainable yield to be
22 adjusted to the new level of recharge. And to my
23 knowledge, anyway, none of the present sustainable
24 yields throughout the state do reflect the long-term
25 climate change potential impact on recharge.

1 **CHAIR SCHEUER:** Thank you very much, Mr.
2 Nance. I really appreciate that.

3 So my last thing is not a question, but a
4 statement. I find that the water -- that one of the
5 greatest potential impacts from this rezoning is on
6 water resources. And I find that the -- I find that,
7 based on the testimony and the documents and the
8 questions and the responses, that there is not a
9 significant impact if water consumption is kept to
10 the level that has been projected by Akinaka.

11 And the reason I say that, just so it's
12 very clear that when -- if and when the DBA comes
13 forward, if the request is for water resources
14 beyond that level, I would have to state that the EA
15 did not actually examine such a use, and we couldn't
16 rely on the EA for any of that.

17 **MR. CHIPCHASE:** Understood, Chair.

18 **CHAIR SCHEUER:** Okay. I just want to be --
19 I don't want -- you all are operating in good faith,
20 and I don't want you to feel like what I'm saying
21 comes as any surprise later.

22 **MR. CHIPCHASE:** I believe you have Dr.
23 Dancil's commitment on the record, not once but
24 twice. And if you'd like Mr. Matsumoto to make the
25 same commitment, I'm sure he's prepared to do so.

1 **CHAIR SCHEUER:** It's enough. All that's in
2 front of us right now is the EA, and so really all
3 I'm just trying to make clear is what I find to be
4 in the EA and what I find is not in the EA, so. But
5 I really appreciate it.

6 Is there anything further, Commissioners?
7 If there's nothing further, I think actually we
8 might be able to dispense with things. So I would
9 first ask just to do a final confirmation from the
10 County and OPSD that they have no questions.

11 **MR. HOPPER:** Sorry. No, Chair.

12 **MR. YEE:** No questions, Chair.

13 **CHAIR SCHEUER:** Okay. And are you ready to
14 make statements on the case, both of you?

15 **MR. HOPPER:** Yes, Chair.

16 **CHAIR SCHEUER:** Okay. About how long each,
17 do you think?

18 **MR. HOPPER:** I will be very brief. We're
19 mainly here to answer questions, if you have them,
20 with the witnesses we have. But we don't have
21 anything other than the statement that we filed to
22 present.

23 **CHAIR SCHEUER:** Mr. Yee?

24 **MR. YEE:** Same.

25 **CHAIR SCHEUER:** So, Commissioners, we

1 could either power through and possibly be done
2 fairly soon. Now we've gone well over an hour. Or we
3 could take a break for lunch. What's your
4 inclination? Power through?

5 Arnold's looking sad.

6 **COMMISSIONER WONG:** Yeah, and I'm willing
7 to power through, Chair.

8 **CHAIR SCHEUER:** Okay. So let's here from -
9 - what we'll do is we'll hear from Maui County, any
10 questions for Maui County from the commissioners,
11 then OPSD, any questions, and a chance for final
12 comments or rebuttal from Mr. Chipchase, and we'll
13 go into formal deliberation.

14 Mr. Hopper?

15 **MR. HOPPER:** Thank you, Chair. The County
16 of Maui did file a response to the motion for a
17 finding of no significant impact. The County has no
18 objections to the LUC granting a motion and finding
19 no significant impact with respect to this project
20 and entering a FONSI.

21 I do have Deputy Director Jordan Hart and
22 Planner Kurt Wollenhaupt here to answer County-
23 related questions, if you have them. But we don't
24 want to take up any more of the commission's time
25 than necessary, so we will rest on our pleading and

1 allow questions, if the commission had any.

2 **CHAIR SCHEUER:** Thank you, Mr. Hopper.

3 Commissioners, questions for the County?

4 Seeing none.

5 **MR. HOPPER:** Thank you, Chair.

6 **CHAIR SCHEUER:** Mr. Yee?

7 **MR. YEE:** OPSD similarly has no objections
8 to the acceptance of the FEA. Many of the issues
9 raised today are issues that we will also be
10 interested in pursuing at the DBA hearing, but for
11 purposes of this matter today, we have no objections
12 and believe the FEA should be accepted. Thank you.

13 **CHAIR SCHEUER:** Questions for Mr. Yee and
14 OPSD from the commissioners? Seeing none.

15 Mr. Chipchase, does Pulama wish to make
16 any rebuttal to anything or any closing statements
17 before we enter into deliberations?

18 **MR. CHIPCHASE:** Indeed, Chair, but very,
19 very briefly, because I know the dangers of keeping
20 Commissioner Wong from his lunch.

21 And so, we'll put just briefly up on the
22 screen that context, those standards that we talked
23 about throughout today, and particularly my very
24 much appreciated colloquy with Commissioner Okuda. I
25 never know who's going to ask me harder questions,

1 Chair, you or Commissioner Okuda. It is a contest.

2 But we put these standards up on the
3 screen. And as you've heard today, the focus is on
4 significance. And as you've read in the EA, and I
5 appreciate the comments and the questions that we
6 have received, all 13 criteria for significance can
7 be answered in the negative for this project.

8 Up on the screen, the left column includes
9 the HAR requirement. The middle column summarizes
10 how it was addressed in the FEA, and the right
11 column shows the reference page in the FEA, so that
12 you have all this material.

13 And as is my usual practice, I will submit
14 our PowerPoint slides to the commission so that they
15 form part of the record.

16 The criteria continue and finally conclude
17 here. As you can see in the materials, and you've
18 heard today, the Lanai Community Plan identifies
19 this project. And as you heard from Mr. Matsumoto,
20 this is really the next step in the 10-year, more
21 than 10-year effort to carry out the specific intent
22 of the community and the planning work that they did
23 at a community level and that was adopted by the
24 council.

25 As you've heard, and I appreciate the

1 qualifications that you offered, Chair, but as you
2 heard, based on the record and representations that
3 were made today, there is no negative impact, and
4 all the criteria have been addressed.

5 And so, based on the evidence before you
6 and the standards that we apply, we ask that you
7 grant this motion to accept the final EA and issue
8 the finding of no significant impact. Thank you all
9 for your time.

10 **CHAIR SCHEUER:** Thank you.

11 Commissioners, any final questions for the
12 applicant? Seeing none, the chair will entertain a
13 motion that the LCU accept or does not accept
14 petitioner's final environmental assessment and
15 grants or denies petitioner's motion to issue a
16 notice of a finding of no significant impact for
17 Docket No. A19-809 Pulama Lanai for the proposed
18 Miki Basin Industrial Park. Any motion should state
19 the reasons for its -- are the basis for its
20 proposal. Commissioners?

21 Commissioner Wong?

22 **COMMISSIONER WONG:** Yes, Chair. I'd like
23 to make a motion to find that we determine that the
24 petitioner's final environmental assessment and the
25 project is not likely to have significant impacts to

1 the environment pursuant to HRS Chapter 343 and the
2 HAR Chapter 11 that we just saw, the Chapter 200,
3 11-200, and that the LUC authorize the executive
4 officer to notify and submit a record of this
5 determination to applicant and the environmental
6 review program by March 2022 determined deadline for
7 the commission's action.

8 And then I'll state that I'll have some
9 statements later about my motion, Chair.

10 **CHAIR SCHEUER:** Okay.

11 Commissioner Cabral?

12 **COMMISSIONER CABRAL:** I'd like to go ahead
13 and second that motion.

14 **CHAIR SCHEUER:** Okay. I'm going to ask
15 first to move on to the seconder to speak to the
16 motion, and then I'll go to the rest of the
17 commissioners.

18 **COMMISSIONER WONG:** That's me, yeah,
19 Chair?

20 **CHAIR SCHEUER:** That's you.

21 **COMMISSIONER WONG:** Thank you, Chair.

22 First off that, you know, the
23 determination that was continued, the FEA was
24 sufficient for our determination to me, and that
25 they pretty much checked the boxes that was needed.

1 It's not saying that I will support or deny this
2 project in the future, but it's just that the FEA
3 was sufficient.

4 The second thing is, you know, I would
5 like to see some sort of phased issue, or the
6 phasing of this project in the future when they com
7 back to us for, you know, what's going to happen in
8 10 years, what's going to happen in 15 years, what's
9 going to happen in 20 years. So that -- what is the
10 increments that's going to happen for this whole
11 project, because this is a big project. So I just
12 would like to see that also.

13 But I think that they checked the boxes
14 that it won't show -- doesn't show anything that
15 will happen to the environment. So that's how I'm
16 going to support this motion, Chair.

17 **CHAIR SCHEUER:** Thank you, Commissioner
18 Wong.

19 Commissioner Cabral?

20 **COMMISSIONER CABRAL:** Thank you, Chair and
21 my fellow commissioners.

22 I want to support this also, because I
23 know there's always the ability to have a million
24 questions and look for perfection and look for a
25 guarantee that nothing will ever go wrong in the

1 future. But I think, too, that if we don't, as the
2 planners, and people in our community start to allow
3 for efforts with good planning and for reasonable
4 ability to move forward, we will just have
5 inappropriate land use taking place in a larger and
6 larger way, where people will just have their
7 concrete plant on ag land. They'll just be
8 slaughtering the deer in the carport. Well, that's
9 what we do at my house, but that's okay, you know.
10 But so that type of thing.

11 And I think that we need to at least try
12 and provide the citizens on all of these islands the
13 ability to do things in a proper manner. So we have
14 to start letting go and allowing for zoning to allow
15 for all types of uses that we know citizens and
16 communities need for their land.

17 And clearly, Lanai is lacking in the
18 ability to have properly zoned areas for business
19 and industrial-type uses, so I do support their
20 efforts to move forward with their future plans at
21 this point. Thank you.

22 **CHAIR SCHEUER:** Thank you, Commissioner
23 Cabral.

24 Commissioners, we have a motion before us
25 to accept the EA and initial finding of no

1 significant impact.

2 Commissioner Giovanni?

3 **COMMISSIONER GIOVANNI:** Thank you, Chair.

4 I will be supporting this motion. I find
5 the final EA to be sufficient, although not perfect.
6 I find that the good faith commitment of Ms. Dancil
7 on two occasions within today's hearing to limit the
8 water use to be critical to my understanding of
9 their commitment and critical to my support for this
10 project going forward and the conclusion of the
11 sufficiency of the final EA.

12 I also feel that I commend Pulama Lanai in
13 -- I think it's a great idea to consolidate and
14 concentrate these industrial-related urban
15 activities in one location on the island as opposed
16 to dispersing at many different places. It not only
17 makes common sense to me, but it seems to be the
18 will of the community, and they've responded to it.
19 So I'm very supportive of this motion.

20 **CHAIR SCHEUER:** Thank you, Commissioner
21 Giovanni.

22 Commissioners, we are in deliberation.

23 Commissioner Okuda?

24 **COMMISSIONER OKUDA:** Thank you, Mr. Chair.

25 I still have serious concerns whether or

1 not there's a violation, for lack of a better term,
2 of the Superferry case.

3 But not withstanding those concerns,
4 what's convinced me to support this motion is the
5 testimony of Mr. Matsumoto. I find him to be a very
6 credible witness, very committed to the community.
7 Even though it's not in the record, I'm sure he
8 could make a lot more money in his industry anywhere
9 else in the United States. For him to come home to
10 Lanai speaks a lot about him.

11 And so, based on his testimony, which
12 convinced me of the fact that this EA probably is
13 accurate, I will be supporting the motion. Thank
14 you.

15 **CHAIR SCHEUER:** Thank you, Commissioner
16 Okuda.

17 Commissioner Aczon, do you wish to make
18 any comments at this time?

19 **COMMISSIONER ACZON:** Sure, since you force
20 me to say something.

21 **COMMISSIONER CABRAL:** You can abstain.

22 **COMMISSIONER ACZON:** Yeah. I will be
23 supporting the motion. I believe the petitioner
24 provided us with easy-to-understand presentation
25 with credible witnesses, and also with the support

1 of the County and OP. I will strongly be supporting
2 this motion.

3 And also, some of the issues that were
4 raised today can be addressed during the DBA
5 application. Thank you, chair.

6 **CHAIR SCHEUER:** As the chair, I'm also
7 tending to support the motion. I want to recognize I
8 very much appreciated all of the public testimony. I
9 recognize that and this is my perception, and
10 perhaps wrong, but perhaps on Lanai, testifying not
11 in complete accord with the wishes of the landowner
12 can be more challenging.

13 I found that the witness, Mr. Kawahara,
14 responded to the concerns about wastewater capacity
15 raised by Councilmember Paltin. I find that some of
16 the questions about why the acreage differentiations
17 for different potential solar uses raised by Ms. Kay
18 were answered by Dr. Dancil. And some of Ms. Kay's
19 questions about sequencing can actually be addressed
20 meaningfully in the DBA proceeding itself, assuming
21 we proceed to that point.

22 I won't further make any comments
23 regarding water, since I think I've already made my
24 position clear on that, other than to note with
25 pleasure that I think I've never in a hearing agreed

1 so much with Tom Nance. It was a pleasure to come to
2 common understandings on critical water issues. And
3 I'm pleased to move this forward.

4 Is there anything further, Commissioners?

5 Seeing none.

6 Mr. Orodenker, would you please poll the
7 commission?

8 **MR. ORODENKER:** Thank you, Mr. Chair.

9 The motion is to find that the LUC
10 determines that the petitioner's final environment
11 assessment project does not have a significant
12 impact to the environment pursuant to HRS Chapter
13 343 and that the commission authorize the executive
14 officer to notify and submit a record of its
15 determination (inaudible).

16 Commissioner Wong?

17 **COMMISSIONER WONG:** Aye.

18 **MR. ORODENKER:** Commissioner Cabral?

19 **COMMISSIONER CABRAL:** Aye.

20 **MR. ORODENKER:** Commissioner Giovanni?

21 **COMMISSIONER GIOVANNI:** Aye.

22 **MR. ORODENKER:** Commissioner Aczon?

23 **COMMISSIONER ACZON:** Yes.

24 **MR. ORODENKER:** Commissioner Okuda?

25 **COMMISSIONER OKUDA:** Yes.

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MR. ORODENKER: Chair Scheuer?

CHAIR SCHEUER: Aye.

MR. ORODENKER: Thank you, Mr. Chair. The motion passes with six votes.

CHAIR SCHEUER: Thank you very much to Mr. Chipchase and Mr. Matsumoto and Pulama, to OPSD and to Maui County, and to all of our witnesses.

There being no further business for today, I declare this meeting in recess until tomorrow, February 17th, at 9 a.m.

MR. CHIPCHASE: Thank you, Mr. Chair.

Thank you, everyone. Have a good day.

(Meeting recessed at 12:37 p.m.)

CERTIFICATE

I, Davilyn Payne, do hereby certify that the proceeding named herein was professionally transcribed on the date set forth in the certificate herein; that I transcribed all testimony adduced and other oral proceedings had in the foregoing matter; and that the foregoing transcript pages constitute a full, true, and correct record of such testimony adduced and oral proceeding had and of the whole thereof.

IN WITNESS HEREOF, I have hereunto set my hand this 31st day of March, 2022.



Davilyn Payne