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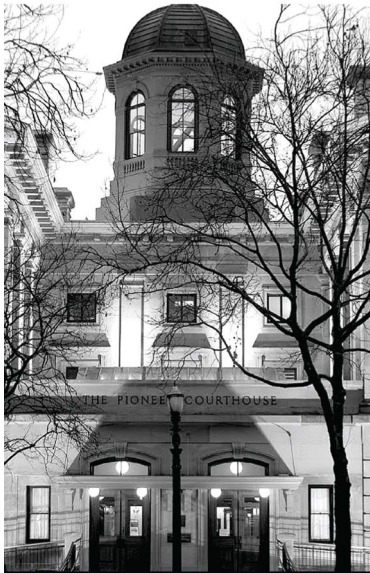
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**FINAL**

**STATE OF HAWAII**

**LAND USE COMMISSION**

Hearing held on March 23, 2022

Commencing at 9:00 a.m.

Held via Zoom Interactive Conference Technology

**I. CALL TO ORDER**

**II. ADOPTION OF MINUTES**

January 19-20, 2022

February 16-17, 2022

**III. TENTATIVE MEETING SCHEDULE**

**IV. ACTION-A87-610 KS WAIAWA (Oahu)**

To Consider Petitioner's Motion for Modification, Time Extension, and Release and Modification of Conditions of Order Granting Motion for Order Amending Findings of Fact, Conclusions of Law and Decision and Order issued by the Commission on February 11, 2020 to allow for modification of the Phase 1 and Phase 2 of the solar farm and to modify and release various conditions under the Commission's 2014 and 2020 Decisions and Orders concerning requirements of the submission of a Master Plan, archaeological sites and plans, burial plans, historic resources, aircraft hazards, traffic, development plans and schedules, and decommissioning of the solar farm phases.

**V. ADJOURNMENT**

**BEFORE :**

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**APPEARANCES BY VIDEOCONFERENCE :**

**COMMISSIONERS PRESENT :**

- Jonathan Scheuer, Chair
- Dawn N.S. Chang
- Dan Giovanni
- Lee Ohigashi
- Edmund Aczon
- Nancy Cabral
- Arnold Wong

**COMMISSIONERS EXCUSED :**

- Gary Okuda

**STAFF PRESENT :**

- Daniel Orodener, Executive Officer
- Scott Derrickson, Chief Planner
- Natasha Quinones, Chief Clerk
- Dan Morris, Esq. Deputy Attorney General

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**APPEARANCES BY VIDEOCONFERENCE CONTINUED:**

**PETITIONER:**

Jennifer Lim, Esq.  
Derrick Simon, Esq.  
Onaona Thoene, Esq.

**CITY AND COUNTY OF HONOLULU, DEPARTMENT OF PLANNING**

**AND PERMITTING:**

Brianna Weaver, Esq., Corporation Counsel  
Dina Wong, Acting Planning Division Chief  
Franz Kraintz, Planner

**OFFICE OF PLANNING AND SUSTAINABLE DEVELOPMENT:**

Bryan Yee, Esq., Deputy Attorney General  
Rodney Funakoshi, Land Use Administrator  
Lorene Maki, Planner

**PETITIONER'S WITNESSES**

Dana Sato, Kamehameha Schools  
Jason Jeremiah, Kamehameha Schools  
Nick Molinari, the AES Corporation  
Lisa Kettley, Tetra Tech

1                   **CHAIR SCHEUER:** Aloha mai kakou and good  
2 morning. This is the March 23rd, 2022, Land Use  
3 Commission meeting, which is being held using  
4 interactive conference technology linking  
5 videoconference participants and other interested  
6 individuals from the public via the Zoom Internet  
7 conferencing program in order to comply with the  
8 ongoing state operational directives during the  
9 COVID-19 pandemic. Members of the public are able to  
10 view the meeting via the Zoom webinar platform.

11                   For all meeting participants, I would like  
12 to stress the importance of everyone speaking  
13 slowly, clearly, and directly into your microphone.  
14 It is helpful if you state your name before  
15 speaking, as we generate the court transcripts from  
16 the digital recording of this meeting.

17                   So please be aware that only the  
18 participants are being recorded on the digital  
19 record. Your participation is your implied consent  
20 to be part of the public record. If you do not wish  
21 to be part of the public record, you should exit the  
22 meeting now.

23                   This technology allows each of the parties  
24 and each of the commissioners individual remote  
25 access to the meeting via our own personal digital

1 devices and connections. Because of that and because  
2 of matters often entirely outside of our control,  
3 occasional disruptions to connectivity may occur for  
4 one or more parties at any time. If this happens,  
5 please be patient. Please let us know, and work with  
6 us as we try to restore audiovisual signals so we  
7 can continue to conduct business during the  
8 pandemic.

9           For any members of the public who wish to  
10 testify on any matter on which public testimony is  
11 being accepted and you are reaching this meeting by  
12 phone rather than the Zoom webinar platform, you can  
13 request to raise your hand by the key \*9, and then  
14 to be unmuted by \*6.

15           From time to time today, we will take  
16 occasional breaks, usually about 10 minutes every  
17 hour. I'm going to announce at this time due to some  
18 personal matters that cropped up unexpectedly for  
19 me, we're going to take our lunch break today at  
20 10:45 and go until noon, when I have to attend to  
21 some family matters. So what I anticipate doing is  
22 going 9 to 10:45 without a break, go to 10:45, take  
23 an hour and 15-minute lunch, resume at noon.

24           I'm advised that at least one of my  
25 commissioners needs to leave at 3 today. Is there

1 anybody else who needs to depart earlier than that?

2 Okay.

3 My name is Jonathan Likeke Scheuer. I have  
4 the pleasure and honor of serving as the Land Use  
5 Commission chair. We currently have eight seated  
6 commissioners of a possible nine. Along with me,  
7 Commissioner Dawn Chang, Commissioner Arnold Wong,  
8 Commissioner Edmond Aczon, and our LUC staff -- our  
9 Executive Officer Daniel Orodener, our Chief  
10 Planner Scott Derrickson, our Staff Planner Riley  
11 Hakoda, our Chief Clerk Natasha Quinones, and our  
12 deputy attorney general for this meeting Dan Morris  
13 -- are all on the island of O'ahu.

14 Commissioner Nancy Cabral is on Hawai'i  
15 Island. Commissioner Lee Ohigashi is on Maui, and  
16 Commissioner Dan Giovanni is on Kaua'i. Commissioner  
17 Okuda, who is from the island of O'ahu, is absent  
18 and excused for today's meeting.

19 Our first order of business is the  
20 adoption of the January 19th and 20th, as well as  
21 the February 16th and 17th minutes.

22 Ms. Quinones, has there been any written  
23 testimony submitted on the adoption of either of  
24 these sets of minutes?

25 **MS. QUINONES:** Good morning, chair. No

1 written testimony has been received on the minutes.

2 **CHAIR SCHEUER:** Okay. Are there any  
3 members of the public who wish to testify solely on  
4 the subject of the adoption of these sets of  
5 minutes? If so, please raise your hand using your  
6 Raise Your Hand function.

7 Okay. I see Nathaniel Kinney wishing to  
8 testify on the adoption of the minutes. I'm going to  
9 promote you as a panelist.

10 **MR. KINNEY:** Apologies, chair. I thought  
11 this was the subject matter, not the minutes.

12 **CHAIR SCHEUER:** I will move you back into  
13 being an attendee.

14 Again, is there anyone who wishes to  
15 testify on the adoption of the minutes? If so, use  
16 the Raise Your Hand function. Seeing none.

17 During our last hearing, there were not  
18 enough votes to approve the minutes for January 19th  
19 and 20th. Today we will take a vote on both sets of  
20 minutes. At the last meeting, Commissioners Okuda  
21 and Cabral were recused from the meeting on January  
22 19th and 20th and the February 17th meeting, and so  
23 will not be voting on the minutes for those dates.

24 With that said, are there any comments or  
25 corrections on the minutes? Seeing none, is there a

1 motion to approve both sets?

2 Commissioner Ohigashi?

3 **COMMISSIONER OHIGASHI:** I move to approve  
4 both sets.

5 **CHAIR SCHEUER:** Thank you. And the bidder  
6 at table 15?

7 **COMMISSIONER WONG:** I second, chair.  
8 Commissioner Wong.

9 **CHAIR SCHEUER:** Thank you, commissioner.  
10 The motion to approve the minutes, both  
11 sets, has been made by Commissioner Ohigashi and  
12 seconded by Commissioner Wong.

13 Mr. Orodener, would you please poll the  
14 commission? If there's -- sorry, is there any  
15 further discussion? Seeing none, Mr. Orodener,  
16 would you please poll the commission?

17 **MR. ORODENKER:** Mr. Chair, the motion is  
18 to approve the minutes for January 19th and 20th,  
19 2022, and the minutes for February 17th, 2022.

20 Commissioner Ohigashi?

21 **COMMISSIONER OHIGASHI:** Aye.

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

23 **COMMISSIONER WONG:** Aye.

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

25 **COMMISSIONER ACZON:** Yes.



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

2           **COMMISSIONER CABRAL:** I vote yay for  
3 February 16th and abstain from the other three sets  
4 of minutes. Thank you.

5           **MR. ORODENKER:** Commissioner Chang?

6           **COMMISSIONER CHANG:** Aye.

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

8           **COMMISSIONER GIOVANNI:** Aye.

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

10          **CHAIR SCHEUER:** Aye.

11          **MR. ORODENKER:** Thank you, Mr. Chair. The  
12 motion passes unanimously.

13          **CHAIR SCHEUER:** Noting the reservations or  
14 the comments from Commissioner Cabral.

15                 Our next item is the tentative meeting  
16 schedule.

17                 Mr. Orodenker, would you please continue?

18          **MR. ORODENKER:** Thank you, Mr. Chair.

19                 I would caution all the commissioners and  
20 public that as of March 25th, the governor's  
21 emergency proclamation is expiring, and the  
22 methodology for our meetings will change slightly.  
23 We will be able to have hybrid meetings where we're  
24 Zoom and in-person.

25                 If we hold -- we'll also be able to do

1 Zoom meetings as well, depending on the  
2 commissioners' desire, and complete in-person  
3 meetings. If we hold Zoom meetings or hybrid  
4 meetings, we will have to have a location available  
5 for the public to attend to preserve the meeting  
6 testimony.

7 That being said, on April 13th, if there's  
8 need for a continuation of this matter or an  
9 adoption of order, we will be -- can be taking up  
10 the KS Waiawa matter on Oahu. On April 27th, we will  
11 be taking up the Church-Hildal matter on the Big  
12 Island.

13 May 11th, we'll be on Kaua'i for DR21-76  
14 Kekaha Ag. On May 12th, we will also -- we'll be on  
15 Kaua'i when we receive a presentation on public  
16 trust doctrine from our chair and recording it for  
17 posterity so we'll have his wisdom for this forever.  
18 May 25th and 26th we have open, but they are still  
19 actual meeting dates.

20 June 8th, we have an administrative  
21 meeting to take up administrative matters. That will  
22 be either by Zoom or here on O'ahu. And the rest of  
23 June is open currently.

24 In July, we will be having -- July 27th  
25 and 28th, we will be having commissioners' training.

1 Right now, the rest of the calendar is in flux, and  
2 I will just caution the commissioners to keep the  
3 dates open. Thank you.

4 **CHAIR SCHEUER:** Thank you, Mr. Orodenker.  
5 Commissioners, questions for Mr.  
6 Orodenker? Okay. Seeing none.

7 Our substantive matter of business and our  
8 next agenda item is Docket No. A87-610 Kamehameha  
9 Schools Waiawa O'ahu to consider the petitioner's  
10 motion for modification, time extension, and release  
11 and modification of conditions of the order granting  
12 a motion amending the findings of fact, conclusions  
13 of law, decision and order issued by the commission  
14 on February 11th, 2020, to allow modification of the  
15 Phase I and Phase II of the solar farm and to modify  
16 and release various conditions under the  
17 commission's 2014 and 2020 decisions and orders  
18 considering the requirements of a master plan,  
19 archaeological sites and plans, burial plans,  
20 historic resources, aircraft hazards, traffic  
21 development plans and schedules, and decommissioning  
22 of the solar farm's phases.

23 Will the parties please identify  
24 themselves for the record, beginning with the  
25 petitioner?

1           **MS. LIM:** Good morning, chair,  
2 commissioners. This is Jennifer Lim representing  
3 petitioner -- or successor petitioner Kamehameha  
4 Schools.

5           **CHAIR SCHEUER:** Okay.

6           **MS. THOENE:** Good morning, chair. Onaona  
7 Thoene of Carlsmith Ball, co-counsel for successor  
8 petitioner Kamehameha Schools.

9           **MR. SIMON:** Good morning, chair. Derek  
10 Simon, co- counsel for petitioner Kamehameha  
11 Schools.

12           **CHAIR SCHEUER:** Anyone else with KS? We're  
13 good? Okay.  
14 County?

15           **MS. WEAVER:** Good morning. Deputy  
16 Corporation Counsel Briana Weaver on behalf of the  
17 Department of Planning and Permitting, DPP.

18           **CHAIR SCHEUER:** Do you have anybody with  
19 you, Ms. Weaver, from DPP?

20           **MS. WEAVER:** Yes. Yes.

21           **CHAIR SCHEUER:** Would you share their  
22 names for the record?

23           **MS. WEAVER:** I'm sorry. I have Franz  
24 Krantz and Dina Wong.

25           **CHAIR SCHEUER:** Thank you. OPSD?

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

5           **CHAIR SCHEUER:** Let me next update the  
6 record.

7           On December 10th of 2021, the petitioner  
8 filed its 2021 motion for modification, time  
9 extension, and release and modification of  
10 conditions, a certificate of service, a memorandum  
11 in support of the motion, an affidavit of Kamuela  
12 Cobb-Adams and Derek B. Simon, Exhibits 1 through  
13 12, and Appendices A through C.

14           On December 15th, OPSD filed a request for  
15 an extension of time to respond. On December 20th,  
16 the petitioner filed a letter in support of the time  
17 extension. On December 22nd, the commission received  
18 the county's request for time extension.

19           On January 19th, the commission received a  
20 copy of the petitioner's 2021 annual report for  
21 county ordinance 9801. On January 10th, the  
22 petitioner filed the notice of appearance from co-  
23 counsel of Jennifer Lim. On January 20th, we also  
24 received the petitioner's letter to the LUC  
25 referencing to scheduling.

1 On February 8th, the commission received  
2 OPSP's response to the petitioner's motion, Exhibits  
3 1 through 3, and a certificate of service. On  
4 February 10th, the county filed its response to the  
5 petitioner's motion for modification. On February  
6 10th, the LUC also mailed the filing and hearing  
7 schedule to the parties.

8 On February 25th, the commission received  
9 the petitioner's digital filing of their first list  
10 of witnesses, a declaration of Derek Simon,  
11 certificate of service, Exhibit 13, 14 Parts 1  
12 through 4, and Exhibits 15 through 41.

13 On February 28th, the commissioner  
14 received the petitioner's hardcopy of the digital  
15 material received on the 25th and corrected digital  
16 copies of the contents of a thumb drive via email,  
17 including a copy of Exhibit 40 and timestamped, and  
18 Nicholas Molinari's written direct testimony, which  
19 is also Exhibit 27.

20 On March 14th, the Land Use Commission  
21 mailed and emailed the LUC meeting agenda for the  
22 meeting for today to the parties on this docket and  
23 to our statewide and county lists.

24 Having updated the record, now let me go  
25 over our procedures for today. First, I will give

1 the petitioner the opportunity to comment on the  
2 commission's policy regarding reimbursement of  
3 hearing expenses. I will then recognize any written  
4 public testimony that has been submitted. Then I  
5 will call for any member of the audience wishing to  
6 give oral testimony on this matter.

7           Following that, the commission will  
8 consider the exhibits that the parties wish to offer  
9 into evidence, beginning with the petitioner and  
10 followed by the county, then OPSD.

11           Following that, the petitioner will make  
12 its presentation and receive comments or questions.  
13 Next, County Planning will go. Finally, OPSD will  
14 go. The petitioner will be given the opportunity to  
15 provide any rebuttal. And finally, after all parties  
16 have presented their arguments, the commission will  
17 conduct formal deliberations and issue a decision.

18           As I noted before, we will take breaks  
19 from time to time. But in a slight break from normal  
20 procedures, I intend to go from now until 10:45  
21 a.m., and then go for an hour and 15-minute break  
22 until noon, when we will resume our proceedings.

23           Are there any questions with our  
24 procedures for today, starting with the petitioner?

25           **MS. LIM:** No questions, chair, from

1 petitioner. Thank you.

2 **CHAIR SCHEUER:** County?

3 **MS. WEAVER:** No questions. Thanks.

4 **CHAIR SCHEUER:** Mr. Yee?

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

6 **CHAIR SCHEUER:** Okay. Let me see. Did the  
7 commissioners have any disclosures to make on this  
8 matter?

9 I will repeat a disclosure which I made  
10 I'm not sure which of the times that this docket has  
11 been in front of us. I've made this disclosure  
12 perhaps multiple times. I have had various  
13 relationships with this project and with the  
14 petitioner.

15 I worked for a post-doctoral year, 2002-  
16 2003, for Kamehameha Schools in the Land Assets  
17 Division, and when I was with the Office of Hawaiian  
18 Affairs, I believe I drafted comment letters on a  
19 water use permit application for the previous  
20 incarnation of this development, water that was  
21 being sought for two golf courses, which is no  
22 longer a part of the envisioned part of this  
23 development.

24 If there's any objections or concerns with  
25 my continued participation in this matter, I will



1 hand the meeting over to the vice chair to hear  
2 those concerns and make a ruling. Are there any  
3 concerns, petitioner?

4 **MS. LIM:** Commissioner, I have no  
5 concerns. Thank you.

6 **CHAIR SCHEUER:** County?

7 **MS. WEAVER:** County has no concern.

8 **CHAIR SCHEUER:** Mr. Yee?

9 **MR. YEE:** No concerns. Thank you.

10 **CHAIR SCHEUER:** Okay. Anybody else have  
11 any disclosures to make within this docket? Okay.

12 Seeing none, Ms. Lim, can you please state  
13 for the record that you've reviewed HAR 15-15-45.1  
14 with regard to the reimbursement of hearing  
15 expenses? And let us know what your client's  
16 position is on the matter.

17 **MS. LIM:** Thank you, chair. Jennifer Lim  
18 for petitioner. This confirms we've reviewed that.  
19 My client is aware of it, and we will comply with  
20 the reimbursement policy. Thank you.

21 **CHAIR SCHEUER:** Thank you.

22 Okay. Let's now go over written testimony.  
23 We have received written testimony on this docket  
24 from Josh Meyers, the director of operations for  
25 Moss Energy, from the Pacific Resource Partnership,

1 from Pane Meatoga III of the Hawai'i Operating  
2 Engineers Industry Stabilization Fund, and the  
3 Hawai'i Regional Council of Carpenters.

4 Ms. Quinones, are there any additional  
5 individuals or organizations who have submitted  
6 written testimony on this docket?

7 **MS. QUINONES:** No, chair. Only the ones  
8 you listed are the ones that we've received.

9 **CHAIR SCHEUER:** Okay. Those written  
10 testimonies have been posted to the website and made  
11 available to the commissioners.

12 Are there any members of the public who  
13 wish to testify on this matter, including,  
14 presumably, Mr. Kinney? If so, please raise your  
15 hand at this time, and I will admit you one-by-one  
16 into the meeting.

17 When I admit you in, you will then be  
18 enabled to turn on your audio and video. I will  
19 swear you in, ask you to state your name and address  
20 for the record, and then offer you the opportunity  
21 to testify. After you've testified, you should  
22 remain on so that any of the parties or the  
23 commissioners can ask you questions regarding your  
24 testimony.

25 I will be admitting in order Nathaniel

1 Kinney, Pane Meatoga III, Christopher Delaunay, Cam  
2 Black. And those are the four individuals at this  
3 time who have raised their hands.

4 Good morning, Mr. Kinney.

5 **MR. KINNEY:** Good morning, chair.

6 **CHAIR SCHEUER:** Do you swear or affirm  
7 that the testimony -- I'm sorry, one moment.

8 Commissioner Aczon, you have a disclosure  
9 you wish to make about this witness?

10 **COMMISSIONER ACZON:** Yes, Mr. Chair. Thank  
11 you.

12 Knowing that Nathaniel Kinney is  
13 testifying in front of us, I used to work for  
14 Hawai'i Carpenters Apprenticeship -- or Hawai'i  
15 Regional Council of Carpenters until 2014 and now  
16 work for a trust fund. And I just want to disclose  
17 that I've known Nathaniel Kinney for a while, and I  
18 can be impartial on these proceedings.

19 **CHAIR SCHEUER:** Thank you very much. Just  
20 let me check with the parties.

21 Oh, let me check with the parties. Any  
22 concerns with Commissioner Aczon's continued  
23 participation, Ms. Lim?

24 **MS. LIM:** Petitioner has no concern. Thank  
25 you.

1           **CHAIR SCHEUER:** Ms. Weaver?

2           **MS. WEAVER:** County has no concern.

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

4           **MR. YEE:** No. No concern. Thank you.

5           **CHAIR SCHEUER:** Thank you.

6           Commissioner Wong?

7           **COMMISSIONER WONG:** I just wanted to  
8 disclose that I do know Mr. Kinney, work-related. I  
9 do not deal with him -- he's a friend, but he's an  
10 acquaintance. How's that? He hasn't bought me lunch  
11 for a few years, so I'll call him an acquaintance.  
12 But I can be fair and honest in this matter. Thank  
13 you, chair.

14           **CHAIR SCHEUER:** Thank you, Commissioner  
15 Wong.

16           Any objections to Commissioner Wong's  
17 continued participation, Ms. Lim?

18           **MS. LIM:** No concern. Thank you.

19           **CHAIR SCHEUER:** Ms. Weaver?

20           **MS. WEAVER:** None. Thanks.

21           **CHAIR SCHEUER:** Mr. Yee?

22           **MR. YEE:** None. Thank you.

23           **CHAIR SCHEUER:** You're a popular guy, Mr.  
24 Kinney. I will now swear you in. Do you swear or  
25 affirm the testimony you're about to give is the

1 truth?

2 **MR. KINNEY:** Yes. I do.

3 **CHAIR SCHEUER:** Okay. If you'd state your  
4 name and address for the record, and then proceed  
5 with your testimony.

6 **MR. KINNEY:** Nathaniel Kinney, 2019 Mohala  
7 Way, Honolulu, Hawai'i 96822. I'm here testifying on  
8 behalf of the Hawai'i Regional Council of  
9 Carpenters.

10 **CHAIR SCHEUER:** Please continue.

11 **MR. KINNEY:** We would like to offer our  
12 support, chair, commissioners, for the modified  
13 decision and order for this important project. We  
14 would like to note that the project has enjoyed  
15 broad support from the community, with resolutions  
16 from three area neighborhood boards in support.

17 And obviously, this is a very important  
18 project in terms of transitioning away from fossil  
19 fuels to renewable energy. We believe that this  
20 project will create hundreds of full-time  
21 construction jobs paying decent wages in the  
22 construction industry and allowing the local green,  
23 local energy efforts to grow.

24 And given the substantial environmental,  
25 social, and economic benefits, we strongly urge the

1 commission to approve the motion.

2 Thank you for your consideration.

3 **CHAIR SCHEUER:** Thank you, Mr. Kinney.

4 Questions for the witness, starting with  
5 the petitioner?

6 **MS. LIM:** No questions from petitioner,  
7 but thank you, Mr. Kinney, for your testimony.

8 **CHAIR SCHEUER:** DPP?

9 **MS. WEAVER:** No questions. Thank you.

10 **CHAIR SCHEUER:** OPSD?

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

12 **CHAIR SCHEUER:** Commissioners, any  
13 questions for Mr. Kinney?

14 Seeing none, thank you very much for your  
15 testimony. I'm going to move you to be an attendee.

16 I'm going to admit Pane Meatoga, followed  
17 by Christopher Delaunay and Cam Black.

18 **MR. MEATOGA:** Aloha, chair.

19 **CHAIR SCHEUER:** Aloha. There you are. Do  
20 you swear or affirm the testimony you're about to  
21 give is the truth?

22 **MR. MEATOGA:** Yes. I do.

23 **CHAIR SCHEUER:** Please state your name and  
24 address for the record, and then proceed with your  
25 testimony.

1           **MR. MEATOGA:** Thank you. For the record,  
2 Pane Meatoga III. Address is 2181 Lauwiliwili  
3 Street, Kapolei, Hawai'i 96707.

4           I represent the Hawai'i Operating  
5 Engineers Industry Stabilization Fund. Our fund is a  
6 labor management organization. We represent 3,000  
7 unionized members and our 500 general contractors  
8 that specialize in heavy site and vertical  
9 construction.

10           The Stabilization Fund would like to  
11 testify in support of AES' Waiawa Phase 2 solar and  
12 storage project, and we respectfully request the  
13 commission's favorable ruling on the motion to  
14 modify the decision and order for A87-610 AES  
15 Waiawa.

16           As you know, this project will support  
17 hundreds of jobs in the state of Hawai'i, with total  
18 economic output of approximately \$131 million.  
19 Additionally, this project will generate and store  
20 electricity derived from solar resources providing  
21 clean and renewable energy for the island of O'ahu,  
22 thus helping Hawai'i to achieve its sustainable  
23 energy goals.

24           Thank you for your time.

25           **CHAIR SCHEUER:** Thank you for your

1 testimony, Mr. Meatoga, and I apologize for my  
2 mispronunciation of your name.

3 Questions for the witness, Ms. Lim?

4 **MS. LIM:** No questions. Thank you for the  
5 testimony.

6 **CHAIR SCHEUER:** Ms. Weaver?

7 **MS. WEAVER:** No questions. Thank you.

8 **CHAIR SCHEUER:** Mr. Yee?

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

10 **CHAIR SCHEUER:** Commissioners?

11 Seeing none, thank you very much for  
12 taking the --

13 Oh, Commissioner Chang?

14 **COMMISSIONER CHANG:** Thank you.

15 Good morning. I just -- if you can hear  
16 me, I just want to ask you a question. There seems  
17 to be great support for this solar project. Has your  
18 membership ever been posed questions related to the  
19 original master plan development of 7,900 homes?

20 **MR. MEATOGA:** My membership? Not to my  
21 knowledge.

22 **COMMISSIONER CHANG:** All right. Thank you  
23 very much.

24 **CHAIR SCHEUER:** Thank you, Commissioner  
25 Chang.



1 Commissioners, any further questions for  
2 the witness?

3 Seeing none, thank you very much, Mr.  
4 Meatoga. I'm going to change you to being an  
5 attendee and admit Mr. Delaunay, followed by Cam  
6 Black.

7 Good morning.

8 **MR. DELAUNAY:** Aloha, chair.

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

12 **MR. DELAUNAY:** I do.

13 **CHAIR SCHEUER:** Okay.

14 **MR. DELAUNAY:** Okay. Christopher Delaunay  
15 testifying on behalf of Pacific Resource  
16 Partnership, 1100 Alakea Street, 4th Floor,  
17 Honolulu, Hawai'i 96813.

18 So Pacific Resource Partnership is in  
19 strong support of AES' Waiawa Phase 2 solar plus  
20 project. We respectfully request the commission's  
21 favorable ruling on the motion to modify the  
22 decision and order.

23 This project is very valuable to our  
24 economy, both by creating new jobs and by creating  
25 infrastructure which can help lower energy costs to

1 consumers and businesses. Construction of this  
2 project will support approximately 565 jobs in the  
3 state of Hawai'i.

4 Also, when completed, this newly proposed  
5 solar project will be capable of generating enough  
6 energy to power approximately 18,000 homes. So this  
7 will bring us closer to achieving our goal, the  
8 state's goal, of generating 100 percent clean energy  
9 by 2045.

10 Thank you for this opportunity to testify.

11 **CHAIR SCHEUER:** Thank you.

12 Questions for the witness, petitioner?

13 **MS. LIM:** No questions from petitioner.

14 Thank you.

15 **CHAIR SCHEUER:** DPP?

16 **MS. WEAVER:** No questions. Thank you.

17 **CHAIR SCHEUER:** OPSD?

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

19 **CHAIR SCHEUER:** Commissioners?

20 Commissioner Chang? Followed by  
21 Commissioner Cabral.

22 **COMMISSIONER CHANG:** Good morning, Mr.

23 Delaunay. As I previously -- as I asked the previous  
24 witness, has your membership ever been asked  
25 questions about supporting the proposed master plan

1 development for this property of 7,900 homes? Has  
2 your membership had the opportunity to be briefed on  
3 that plan?

4 **MR. DELAUNAY:** Not to my knowledge.

5 **COMMISSIONER CHANG:** All right. Thank you  
6 very much.

7 **CHAIR SCHEUER:** Thank you, Commissioner  
8 Chang.

9 Commissioner Cabral?

10 **COMMISSIONER CABRAL:** Yes. Thank you.

11 Thank you for participating. It's always  
12 good to hear from lots of people. My question falls  
13 somewhat in line with this also.

14 The original plan was for that 7,900 homes  
15 of various types and sorts. You have an absolute  
16 number there you gave us for how many jobs it would  
17 create if the solar project is allowed to be  
18 constructed.

19 And my question would be, has anyone  
20 lately looked at how many jobs would be generated if  
21 this house project of 7,900 homes were to be  
22 considered again? Because clearly, there is an  
23 apparent need for housing on O'ahu, so I was just  
24 wondering if anyone has looked at that, or just  
25 solely looking at the solar project at this time?

1           **MR. DELAUNAY:** Yeah. I'm not too -- like I  
2 said in the previous question -- to the previous  
3 question, I have no -- you know, I don't have  
4 knowledge of our membership being approached with  
5 the housing project plans for this area. And I don't  
6 know if others have been approached and considered  
7 the jobs, how many jobs that it might create.

8           So, yeah, not to my knowledge. I don't  
9 know.

10           **COMMISSIONER CABRAL:** Thank you. And I  
11 appreciate your efforts to try and answer. That was  
12 34 years ago. Members present probably weren't even  
13 out of school, at least. I won't talk about diapers,  
14 but, yeah, so thank you, though. It's a long time  
15 ago. Thank you very much.

16           **CHAIR SCHEUER:** Further questions for the  
17 witness? If I may briefly join, commissioners.

18           Mr. Delaunay, I think what perhaps my  
19 fellow commissioners is getting at is that there is  
20 a trade-off; right? If we allow these solar farms to  
21 go forward, which will put Hawai'i on its renewable  
22 energy pathway, there will not be housing developed  
23 on those lands for decades. It appears that there's  
24 a trade-off.

25           Do I misunderstand what's in front of us?

1 Do you believe --

2 **MR. DELAUNAY:** Sorry. Are you asking me  
3 the question?

4 **CHAIR SCHEUER:** I am asking you a  
5 question. Do I misunderstand that the Land Use  
6 Commission today really, and in this docket,  
7 allowing the solar project to move forward, to  
8 continue to move forward, does preclude housing  
9 being put on those lands?

10 **MR. DELAUNAY:** Yes.

11 **CHAIR SCHEUER:** And I believe the Pacific  
12 Resource Partnership has been continuously vocal  
13 about the need for additional housing on this  
14 island.

15 **MR. DELAUNAY:** Yeah. We definitely need  
16 housing, of course. We need to address the  
17 affordable housing crisis, but with this property,  
18 too, I think it's a good project, because we need  
19 renewable energy, too.

20 And we have a deadline. In the energy  
21 crisis, we have a deadline. And, you know, I think  
22 we need relief. Consumers of energy need relief. We  
23 need to lower the cost of electricity for them, and  
24 we need to build these projects as soon as possible,  
25 especially if the coal plants are going offline. You

1 know, I believe 2022, one of the O'ahu coal plants  
2 will be going offline. Or that's actually the goal.

3 But anyway, we need to move forward with  
4 this renewable energy. I think this is an excellent  
5 project. And like I said, it's going to have  
6 economic benefits for both people working on the  
7 project as well as consumers and so forth, and give  
8 us energy security in the state of Hawai'i, help us  
9 to meet our clean energy goals by 2045.

10 So I strongly support this project. Thank  
11 you.

12 **CHAIR SCHEUER:** Thank you. But I guess my  
13 question, again, is are we facing a trade-off on  
14 this docket?

15 **MR. DELAUNAY:** Yeah. There's a balancing  
16 and there's, you know, there's other places that we  
17 can build affordable housing, too, especially around  
18 TOD areas and so forth.

19 So we have to look at all this, and we  
20 have to have that balance. And I think this is a  
21 good balance, having this project up in this area so  
22 we can meet our renewable energy goals and we can go  
23 to a cleaner economy.

24 **CHAIR SCHEUER:** Thank you very much for  
25 your response. I really appreciate it.

1           **MR. DELAUNAY:** Thank you.

2           **CHAIR SCHEUER:** Anything further,  
3 commissioners? Seeing none, thank you very much for  
4 your testimony.

5           **MR. DELAUNAY:** Thank you.

6           **CHAIR SCHEUER:** I'm going to move you to  
7 be an attendee.

8           I'm going to admit Cam Black.

9           Aloha. Good morning. Do you swear or  
10 affirm the testimony you're about to give is the  
11 truth?

12           **MR. BLACK:** I do.

13           **CHAIR SCHEUER:** Okay. Name and address for  
14 the record, and then proceed with your testimony.

15           **MR. BLACK:** Cameron Black, 235 South  
16 Beretania Street, Honolulu, Hawai'i.

17           Good morning, Chair Scheuer, land use  
18 commissioners, participants, and members of the  
19 audience. We wanted to briefly add to our written  
20 comments included in OPSD's response. Our comments  
21 are in support of the Phase II solar project, the  
22 Waiawa Phase 2 solar project.

23           The last time our office testified in  
24 front of the LUC was September of 2021 in support of  
25 the Mahi solar project proposed by Longroad Energy.

1 As we all know, a lot's changed since then.

2 Back then, September 2021, oil was about  
3 \$72 per barrel, which was up from \$40 the previous  
4 September in 2020. Today it's around \$117 per  
5 barrel. I'm including in a spike of \$130 per barrel  
6 earlier this month, and I think I'm reporting news  
7 we're all very aware of today.

8 The Waiawa solar project will provide  
9 around 1.5 percent of O'ahu's electricity at a fixed  
10 price for 20 years. As Mr. Delaunay said, it will  
11 help replace the significant power generated by  
12 Hawai'i's last remaining coal plant in Campbell  
13 Industrial Park when that coal plant is retired  
14 later this year.

15 As also pointed out by Mr. Kinney, this  
16 project was supported by the three neighborhood  
17 boards in the area, and like those neighborhood  
18 boards, our office supports the Waiawa Phase 2 solar  
19 project and approval of Kamehameha Schools' motion.

20 Thank you.

21 **CHAIR SCHEUER:** Thank you.

22 Questions for the witness, Ms. Lim?

23 **MS. LIM:** No. Not from petitioner.

24 Thank you, Mr. Black.

25 **CHAIR SCHEUER:** Ms. Weaver?



1 **MS. WEAVER:** No questions from the county.

2 Thank you.

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

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

5 **CHAIR SCHEUER:** Commissioners? Any

6 questions?

7 Thank you very much for adding to your

8 testimony. We appreciate it.

9 **MR. BLACK:** Thank you.

10 **CHAIR SCHEUER:** Are there any other

11 members of the public who wish to provide testimony

12 on this matter? If so, please use the Raise Your

13 Hand function. I can see who is in attendance, and I

14 can note that there's nobody calling in by phone, so

15 use the Raise Your Hand function. Going once.

16 Seeing none, I'm going to close public

17 testimony on this matter. And let's now take up

18 admission of exhibits, starting with the petitioner.

19 Ms. Lim, can you please describe the

20 petitioner exhibits you wish to have admitted into

21 the record?

22 **MS. LIM:** Sure. In the interest of not

23 boring everybody to tears, I won't read the names of

24 all of the exhibits, but I will ask --

25 **CHAIR SCHEUER:** You can save the boring us

1 for tears for later.

2 **MS. LIM:** I would ask that all of our  
3 exhibits, so that's Exhibits 1 through 41, that we  
4 filed at those dates be admitted as evidence,  
5 please.

6 **CHAIR SCHEUER:** Are there any objections  
7 from the parties? County?

8 **MS. WEAVER:** No objections. **CHAIR SCHEUER:**  
9 OPSD?

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

11 **CHAIR SCHEUER:** Commissioners, any  
12 objections or questions?

13 Hearing none, petitioner's exhibits as  
14 enumerated by Ms. Lim are admitted into the record.

15 County, do you have any exhibits you wish  
16 to have admitted into the record?

17 **MS. WEAVER:** County does not.

18 **CHAIR SCHEUER:** Okay. OPSD?

19 **MR. YEE:** OP does not.

20 **CHAIR SCHEUER:** Okay. We can now begin  
21 with presentations of the parties.

22 Ms. Lim, you're going to be calling some  
23 witnesses today?

24 **MS. LIM:** I am. Yes, chair. But I would  
25 like to start out with some opening remarks to sort

1 of set the framework of the motion before we go into  
2 our witnesses.

3 **CHAIR SCHEUER:** Okay. So if you give me a  
4 sense of how long your opening remarks might be, and  
5 then the order of your witnesses?

6 **MS. LIM:** Sure. Opening remarks will run  
7 between 10 and 15 minutes. Our witnesses will --  
8 there are four we intend to call. The first is Ms.  
9 Dana Sato, followed by Nick Molinari, followed by  
10 Lisa Kettley, and finally, Jason Jeremiah.

11 We do have several sub-consultant  
12 witnesses who are on standby, the more technical  
13 witnesses, if the commission or other parties had  
14 very detailed questions that the four we're going to  
15 call couldn't answer. I think that's unlikely, but  
16 they're available if there are questions.

17 **CHAIR SCHEUER:** Okay. Just for our  
18 benefit, would you enumerate who those individuals  
19 are?

20 **MS. LIM:** Sure. So the people who are  
21 standby but we don't intend to call are the folks  
22 that we have listed on our list of witnesses.

23 That would be Sohrad Rashid, the traffic  
24 engineer from Fehr & Peers. We have Sam Ley, who's  
25 with the AES Corporation; Tom Snetsinger from Tetra

1 Tech -- he's a biologist; Maya LeGrande from  
2 LeGrande Biological Services, also a botanist; and  
3 Paul Matsuda, engineer from Group 70, who prepared  
4 the preliminary engineering consideration report we  
5 filed, I believe, as Exhibit 41.

6 **CHAIR SCHEUER:** Thank you very much. Okay.  
7 Why don't you begin with your presentation, Ms. Lim?  
8 Are you going to be a presentation, a PowerPoint?

9 **MS. LIM:** I will not be showing a  
10 PowerPoint, but I did want to ask if you could grant  
11 permission to Ms. Thoene to do some sharescreening.  
12 There'll be a few moments, both during my opening  
13 remarks and then as our witnesses do their  
14 presentation, where they'll probably want to rely on  
15 certain of the exhibits. So if she could have that  
16 permission, that would be helpful.

17 **CHAIR SCHEUER:** She should have that  
18 permission now. Yes.

19 **MS. LIM:** Thank you, chair and  
20 commissioners. I'll start now.

21 So for the record, this is Jennifer Lim,  
22 and as you know, I'm here because we represent  
23 Kamehameha Schools, or KS I'll refer to them as, and  
24 they are the successor petitioner in this docket.  
25 And as you know, I'm assisted by co-counsel Onaona

1 Thoene and Derek Simon.

2 We are here in Kamehameha Schools' offices  
3 at Kawaihau Plaza. We have our witnesses and we  
4 have certain other members of our team in adjoining  
5 rooms. If you happen to hear other voices, we're all  
6 together.

7 This is the third time, and I believe  
8 chair alluded to this earlier. This is the third  
9 time we've come before this very commission to  
10 address solar farm uses on this 1,395-acre urban  
11 district property that's in Waiawa, in Waipio, and  
12 Ewa. And we remain grateful to the commission for  
13 the time that you've spent with us in the past and  
14 for those prior approvals.

15 Several of you were serving on the  
16 commission in 2014, when you first authorized  
17 Kamehameha Schools to use approximately 655 acres  
18 within the petition area for solar farm development.  
19 So this is that decision and order from 2014 which,  
20 like I said, several of you were on the commission  
21 at that time, but not all of you.

22 And we're going to go to Exhibit A of the  
23 petition. So this is the approval that's in place  
24 right now. As you can see, Exhibit A shows two areas  
25 that the commission approved. So within this larger

1 1,395 acres, the commissioner approved the Phase I  
2 site, which is approximately 387 acres for solar  
3 use, and approved the Phase II site, which was about  
4 268 acres, for utility-scale solar use. And the  
5 commission's approval in 2014 said that utility-  
6 scale solar could stay on that property until  
7 November 26, 2049.

8 I think all of you were on the commission  
9 when we came back to you in 2019, and wrapped it up  
10 in 2020, to request some changes to the Phase II  
11 site. So that's not this site that we're here to  
12 talk about today. And that was so that Waiawa Solar  
13 Power LLC, which was a Clearway Energy subsidiary,  
14 could develop their solar farm, which was a little  
15 bit different than the solar farm that you all had  
16 approved in 2014.

17 And we told you, when we were here in  
18 2019, you'll see us again, because we need to come  
19 back, and we'd like to do a refresh on the Phase I  
20 solar site. And so today's that day.

21 We're here today for our motion for  
22 modification, time extension, release and  
23 modification of conditions, and the solar farm  
24 developer who will be utilizing the Phase I site,  
25 should you so approve, is Waiawa Phase 2 Solar LLC,

1 which is a subsidiary of the AES Corporation, which  
2 I assume is why many of the public testifiers  
3 referred to AES and referred to the project as the  
4 AES solar farm.

5 So they're going to develop their project  
6 in the same area that you all approved for solar  
7 farm in 2014. So you could say, as I think maybe you  
8 were intimating, why are we bothering you with  
9 motion after motion when you already approved us for  
10 this use in 2014?

11 And that's for a couple of reasons,  
12 primarily because that original developer in 2014  
13 was SunEdison, and SunEdison was going to develop  
14 both of those large utility- scale solar farms.

15 SunEdison ran into a great deal of  
16 trouble. This commission worked efficiently and  
17 diligently and did grant the approval, but  
18 unfortunately, when HECO went to the Public  
19 Utilities Commission, the Public Utilities  
20 Commission didn't approve the PPA, that SunEdison  
21 with HECO. And unfortunately, the SunEdison project  
22 didn't go forward and, in fact, SunEdison went  
23 bankrupt.

24 So what that meant is that Kamehameha  
25 Schools had this land with these two large areas

1 that you all approved for solar farm uses, and we  
2 didn't have the solar farm developer.

3 So luckily, HECO kept pushing for  
4 renewable energy. The state kept pushing for  
5 renewable energy. And KS kept its eyes open, looking  
6 for good solar farm partners. And fortunately,  
7 Waiawa Phase 2 solar came onto the horizon.

8 What Waiawa Phase 2 solar wants to do is  
9 develop a 30-megawatt alternating current, 60-  
10 megawatt direct current photovoltaic system with a  
11 240-megawatt hour battery energy storage station in  
12 the Phase I site.

13 And on the screen right now Ms. Thoene  
14 pulled up, this is Exhibit 2 that was filed with our  
15 motion which, as you can see, is the same outline  
16 that was in the 2014 approval. But we wanted to call  
17 out this Waiawa Phase II solar site.

18 And you can see, although it's in the same  
19 location, there's two separate areas. And you can  
20 see that because one of the areas is shown in  
21 crosshatch, you know, the little checkerboard part,  
22 and that area we call Parcel A.

23 And the other area that's in hatch, or not  
24 the checkerboard style, that we call Parcel B.

25 Parcel A is about 151 acres, and Parcel B



1 is about 236 acres. And again, it's all within that  
2 same footprint that's under your current 2014  
3 approval.

4           The reason why these are split in two is  
5 because, as you all recall from the master plan  
6 presentation in January of 2020, KS is going to be  
7 developing this property with homes, with schools,  
8 with parks, with all of the sorts of things that  
9 will come into play as they pursue their master  
10 plan.

11           The development, as you may or may not  
12 recall from January, the development is going to  
13 start from the south, closer to TOD, which we don't  
14 have on this exhibit, but you might recall the  
15 southern part of the property is where the  
16 development will start and will incrementally move  
17 up.

18           So Parcel A, when KS and Waiawa Phase 2  
19 solar negotiated their arrangement, part of the deal  
20 is that Parcel A has to be fully decommissioned and  
21 gone by the end of 2044. And that is so that Parcel  
22 A, the crosshatch part, doesn't impede Kamehameha  
23 Schools' progress as they continue to pursue the  
24 master plan development.

25           At this point --

1           **CHAIR SCHEUER:** Ms. Lim, I'm sorry.

2           **MS. LIM:** Yeah.

3           **CHAIR SCHEUER:** I just want to -- there's  
4 a binging, and that's either occurring from the Land  
5 Use Commission offices or your location  
6 periodically. It seems like to be an alert on emails  
7 or something. Is it possible to have that --

8           **MS. LIM:** I've been hearing it, too,  
9 chair. I know it's not coming from my computer.

10          **CHAIR SCHEUER:** Okay. Whoever it is, it  
11 would be helpful for the recording of this record. I  
12 apologize, Ms. Lim. Please continue.

13          **MS. LIM:** Not at all. Thank you.

14                 So just to wrap up on that, the reason why  
15 this is different from what you all approved in 2014  
16 is that this Parcel A section is going to be  
17 decommissioned actually earlier than the current  
18 approval. It's going to be decommissioned five years  
19 earlier than what you already approved.

20                 The Parcel B section is going to stay in  
21 place, if you approve, a little bit longer. So it  
22 will stay in place until 2054, be fully  
23 decommissioned by the end of 2054, again, so that  
24 the solar farm doesn't impede the progress of  
25 Kamehameha Schools' development of its master plan.

1 So that's the solar farm. And in addition  
2 to kind of the big picture request that I just  
3 articulated, our motion also requested some  
4 amendments to certain of the conditions that were  
5 imposed in 2014 and the release of two of the  
6 conditions that had been imposed in 2014. And  
7 there's a few reasons why we asked for  
8 modifications.

9 Primarily, the 2014 approval, as I already  
10 said, applied -- there was one developer, and they  
11 were going to be developing both solar farms. So  
12 when you set those conditions, the conditions said,  
13 okay, for Phase A you must do X and for Phase B you  
14 must do Y.

15 But now we know the project -- the two  
16 solar farms have been bifurcated. There's two  
17 separate developers. We saw Clearway right before  
18 the pandemic, and today we have the Waiawa Phase 2  
19 solar developer. So the conditions need to be  
20 cleaned up so that the conditions that are imposed  
21 on this matter apply just to this Phase I site, and  
22 the same way that the Clearway conditions apply just  
23 to the Phase II site.

24 And then there's a few other -- really,  
25 they're almost housekeeping amendments that we

1 requested to the conditions. And our proposed  
2 modifications are all in Table 1 in our motion that  
3 starts at around page 10 of our motion, but let me  
4 give you an example of what I mean by clean-up  
5 edits.

6 In 2014, at the point that you issued the  
7 decision and order, there wasn't yet an  
8 archaeological inventory survey that covered all  
9 1,395 acres. There was one in the works, but it  
10 hadn't yet been finalized or approved by SHPD.

11 So when you approved the solar farms, you  
12 said, hey, we're approving this, but solar developer  
13 SunEdison, you can't go forward until -- you cannot  
14 go forward with construction until the  
15 archaeological inventory survey has been accepted by  
16 SHPD.

17 So that condition is still out there, but  
18 it's kind of moot at this point, because not only  
19 has the archaeological inventory been completed,  
20 it's been accepted. (I just heard that, too, that  
21 ding.) The archaeological inventory survey has been  
22 not only completed; it's been accepted. These are  
23 all filings that are in the record. And, in fact,  
24 the preservation plan has been prepared and accepted  
25 by SHPD.

1 So that's an example of a kind of clean-up  
2 condition that we're seeking to amend, just  
3 basically to reflect the fact that some things have  
4 been done since 2014, and so the conditions should  
5 kind of keep up with the times.

6 There were two other conditions, one of  
7 which said that KS had to file and map the metes and  
8 bounds of the two solar areas. That's been done, so  
9 that's why we requested release of that.

10 Another condition from 2014 was that  
11 Kamehameha Schools had to provide a master plan and  
12 a schedule for development. We did that. As you  
13 know, that was filed in October of 2019. We had a  
14 pretty extensive presentation from Walter Thoemmes  
15 from Kamehameha Schools in January of 2020, so we  
16 sought release from that. So all that's in our  
17 motion.

18 But after we filed our motion, the Office  
19 of Planning and Sustainable Development, they filed  
20 their response. And in their response, they had a  
21 list of conditions, and we took a good look at those  
22 conditions, because some of them are a little bit  
23 different than what we had proposed in our motion.

24 And we looked at them and, you know,  
25 conferred with KS, worked a little bit with OPSD on

1 language, and I have to say I'm very grateful and  
2 pleased to announce that OPSD and KS were able to  
3 file a stipulated proposed conditions of approval  
4 document, and that's Exhibit 40.

5           And you can see from this -- if we just  
6 page a little bit more quickly, there are some items  
7 in here like the revised master plan. This would be  
8 a condition that wasn't reflected in our motion but  
9 is something that OPSD recommended and that OPSD and  
10 Kamehameha Schools have agreed to.

11           Certain other items, like condition 3. I  
12 mentioned the archaeological inventory survey edit  
13 that we sought to make. And OPSD said, well, okay,  
14 that makes sense, but we want to know there's going  
15 to be compliance with the preservation plan, et  
16 cetera.

17           So just in general, if you go through that  
18 exhibit, you'll see that these conditions are  
19 targeted just to the Phase I site when their  
20 conditions are related to solar farm uses and other  
21 conditions that are more general, such as the master  
22 plan condition that would apply to the entire  
23 petition area.

24           There's an additional decommissioning  
25 condition. Again, it's a little more refined than

1 what the commission had imposed in 2014, and it  
2 better reflects what the state office -- excuse me,  
3 the Hawai'i State Energy Office had recommended.

4           And for the first time ever, there's now  
5 an extensive wildlife protection condition. Even  
6 though it's the same land that we've talked about  
7 with you several times before, this was a  
8 recommendation, and Kamehameha Schools is, you know,  
9 willing to accept these conditions, if the  
10 commission is to grant this motion. So that's where  
11 we are on the request that we made.

12           In terms of our meeting the standard, as  
13 this commission knows, a motion to amend an existing  
14 boundary amendment. So an existing decision order  
15 must meet the good cause standard under Hawai'i  
16 Administrative Rule 15-15-94. And we believe we've  
17 given ample reasons for the commission to find good  
18 cause to grant the approvals we're seeking today.

19           It's not only the support that we've  
20 gotten from OPSD, the support from Department of  
21 Planning and Permitting, from the Hawai'i State  
22 Energy Office, and from the public testifiers today,  
23 but I want to highlight a few of the things that Mr.  
24 Black didn't mention in his compelling public  
25 testimony.

1           And I've pulled up his letter -- excuse  
2 me, this is the letter that the Hawai'i State Energy  
3 Office had submitted that was included in Office of  
4 Planning and Sustainable Development's filing. And  
5 as you can see, it clearly evidences that Hawai'i  
6 does need to meet 100 percent renewable energy by  
7 the year 2045.

8           I heard Mr. Black say that only 1.5  
9 percent of Hawai'i's electricity rate now is coming  
10 from renewable energy. The support that Hawai'i  
11 State Energy Office articulates it -- in fact, I  
12 think, substantiates our position that there is good  
13 cause for this motion, because the Phase I solar  
14 farm will support Act 23, which was enacted in late  
15 2015, I believe, and requires -- excuse me; strike  
16 that.

17           It was enacted in late 2020 and requires  
18 all coal burning in the state to stop by the end of  
19 2022. So the need for renewable energy to replace  
20 that existing source of energy is very, very  
21 important.

22           As previously noted, these are some other  
23 items that I highlighted, but I think Mr. Black  
24 touched on those quite well. The project saves,  
25 avoids almost 3 million barrels of oil over the term



1 of the PPA, and these are pretty important things  
2 that I think we should consider, especially in light  
3 of the tragic, historic, worldwide events that are  
4 happening right now.

5 I think it's emphasizing more than any  
6 other time in my life the need for sustainable  
7 energy that we can get here on the island.

8 I'll also note that, as you heard from the  
9 public testifiers, we did receive support from  
10 several neighborhood boards. The project also  
11 includes an educational component, so it's not just  
12 the neighborhood board's support, but Kamehameha  
13 Schools and Waiawa Phase 2 solar also have an  
14 agreement whereby they're going to work together on  
15 educational programs that will support the  
16 stewardship of local environmental issues through  
17 advancement of green jobs, sustainability, and  
18 conservation.

19 So there's a lot of good things that this  
20 project will bring, and it will not impede the  
21 development of a master plan.

22 The master plan -- if you remember from  
23 January 2020, the master plan fully contemplates the  
24 existence of this solar farm and that this solar  
25 farm will go away at the point that Kamehameha

1 Schools anticipates being ready to move forward on  
2 the development on that portion of that property.

3 So out of respect for everybody's time and  
4 knowing that we filed a lot of stuff, a lot of  
5 exhibits for you to review, including a lot of  
6 written direct testimony -- as I mentioned earlier,  
7 we've filed 41 exhibits, including written direct  
8 testimony of several of the witnesses, including the  
9 four witnesses who we're going to present today.

10 Therefore -- and you can see it right  
11 there; just went past it -- but you can see Ms.  
12 Sato's written direct testimony is Exhibit 26, Mr.  
13 Molinari is Exhibit 27, Ms. Kettley is Exhibit 28,  
14 and Mr. Jeremiah is Exhibit 29. Those are all in the  
15 record, as is written direct testimony of the more  
16 technical sub-consultants.

17 Because we've put a lot of evidence into  
18 the record, and we don't want to take up more time  
19 than is necessary, I don't intend to go through a  
20 detailed series of questions with our witnesses,  
21 because I know you've read all of that written  
22 direct testimony. We'll take somewhat of a higher-  
23 level review and then turn them over for questions.

24 And Ms. Thoene is showing our list of  
25 witnesses, but I think in light of chair's earlier

1 question about who we might call, there's no reason  
2 to show that list again.

3 So with that, if there aren't any  
4 questions on this opening statement, I would like to  
5 call our first witness, which is Ms. Dana Sato.

6 **CHAIR SCHEUER:** Okay. Let me see if  
7 there's any questions for you from the  
8 commissioners, Ms. Lim, at this time.

9 Commissioner Giovanni?

10 **COMMISSIONER GIOVANNI:** I'll have more  
11 questions later, but I just wanted to clarify. I  
12 think Ms. Lim inadvertently misquoted Mr. Black.

13 He said that -- and I just want to confirm  
14 this, but he said this project would represent about  
15 1.5 percent of the energy demand or supply. Ms. Lim  
16 said that renewable energy in total today is only  
17 1.5 percent. So I think Mr. Black was talking about  
18 the incremental 1.5 percent that this project would  
19 add to renewable energy; is that correct?

20 **MS. LIM:** I'm so sorry, Chair Giovanni. I  
21 guess got a little bit flustered. I think that what  
22 you just said is correct and consistent with what  
23 Mr. Black said. I apologize for that.

24 **COMMISSIONER GIOVANNI:** Yeah.

25 **CHAIR SCHEUER:** He's not chair yet.

1 **COMMISSIONER GIOVANNI:** And may never be.

2 **MS. LIM:** Vice chair; right?

3 **COMMISSIONER GIOVANNI:** Vice chair. But,  
4 yeah, I mean, Hawaiian Electric just reported  
5 they're at 38 percent statewide right now, so. Thank  
6 you.

7 **MS. LIM:** Thank you for that  
8 clarification.

9 **CHAIR SCHEUER:** Thank you, Commissioner  
10 Giovanni, and your response, Ms. Lim.

11 Other questions for Ms. Lim at this time?  
12 If not, let's bring in Ms. Sato.

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

15 **MS. SATO:** I do.

16 **CHAIR SCHEUER:** Thank you.

17 **MS. SATO:** Good morning, everyone.

18 **CHAIR SCHEUER:** Your witness, Ms. Lim.

19 **MS. LIM:** Good morning, Dana. You've been  
20 before this commission before, but if you would,  
21 just refresh the commissioners, please, on who you  
22 are and what you do at Kamehameha Schools.

23 **MS. SATO:** Certainly. My name is Dana  
24 Sato. I am currently the director of leasing and  
25 transactions. When I first came before the

1 commission, it was in 2019-2020, when we were  
2 discussing that decision and order back at that  
3 time.

4 At that time, I was the director of asset  
5 management for the islands of O'ahu, Maui, Molokai,  
6 and Kaua'i, and my team of land asset managers  
7 oversaw and managed our KS ag, conservation, and  
8 residential lands on those islands.

9 And so, this Waiawa project was one of our  
10 projects, our chief projects, as far as the solar  
11 and renewable energy. So I've been very much  
12 involved in that.

13 In February of last year, I took on a new  
14 position which, as I mentioned, is the director of  
15 leasing and transactions, so still do a lot of work  
16 with asset management, still continue to do a lot of  
17 work regarding this Waiawa solar project, and my  
18 team currently now is rather -- is a statewide team.

19 The focus is primarily on the  
20 implementation and documentation of our real estate  
21 transaction agreements, so still focused on  
22 agriculture and conservation and residential, but  
23 also dealing with select mixed use commercial  
24 projects that we have as well across the state.

25 So I think that's a pretty good skinny on

1 what's been happening in my life since I last saw  
2 you folks.

3 **MS. LIM:** Thank you, Dana. And just for  
4 the record, will you confirm that Exhibit 26 is in  
5 fact your written direct testimony?

6 **MS. SATO:** Yes. Exhibit 26 is my direct  
7 testimony. I printed it up this morning, just to  
8 make sure. Thank you.

9 **MS. LIM:** Thank you. So, Dana, like I  
10 said, let's not drag the commissioners and the other  
11 parties through every question in your written  
12 direct testimony. Rather, taking a step back, could  
13 you explain to the commissioners if renewable energy  
14 is important to Kamehameha Schools, and if so, why  
15 on this property?

16 **MS. SATO:** I apologize for the delay. I'm  
17 trying to -- I find my hand shaking so much as I'm  
18 preparing for my testimony here that I can't click  
19 the mouse and I can't seem to get to the space for  
20 it to take the mute off, so kala mai for a little  
21 delay in the timing for that.

22 KSA is, as all of you know, not a  
23 developer that comes in and out. We're not actually  
24 true developers either. We are a perpetual  
25 educational trust, and so our focus -- when we're

1 talking about planning and development, our focus is  
2 not about what's happening in the here and now,  
3 although we're impacted by the here and now, but our  
4 focus in the planning is always looking several  
5 generations ahead.

6           And so, as we look at renewable energy,  
7 and as already has been testified from the  
8 additional attendees through their written as well  
9 as their oral testimony, there are definitely things  
10 that are so important about renewable energy that it  
11 is one of our key goals in our aina portfolio is the  
12 focus on renewable energy.

13           So renewable energy as we look at it falls  
14 into three sort of simple categories, and I call  
15 them simple because it's been -- it's so apparent in  
16 our discussions today and in our previous  
17 appearances before you folks.

18           First of all is, obviously, the  
19 environmental benefits that we've gone over quite a  
20 bit. And as a Native Hawaiian organization, we all  
21 know the importance for our native people as it ties  
22 into aina and the environment. And so, this is an  
23 opportunity, first, to contribute toward the taking  
24 care of our aina and our environment and our people.

25           The second key focus is financial return.

1 KS is always looking for the opportunity to develop  
2 our financial return on our KS lands as long as they  
3 align with our KS value and our KS purpose, which  
4 renewable energy falls directly in line with.

5 It provides us financial revenue that  
6 allows us to then contribute that to our financial  
7 endowment which, as we know, leads into the third  
8 benefit, which is our educational benefit.

9 It also, with renewable energy, allows the  
10 opportunity to do exactly what we're doing on this  
11 property, which is the phasing-in and to allow for  
12 development. So as Jennifer mentioned earlier, our  
13 counsel mentioned earlier, we're looking at this  
14 project from a bigger scale when we're looking at  
15 the long-term Waiawa master plan.

16 We start from the bottom, working our way  
17 up, and in the meantime, we allow our land to do  
18 what our lands have already done for us as a Native  
19 Hawaiian people, which is to provide for us until  
20 that right moment for it to provide in another way.  
21 And that's what this is doing.

22 It allows us to phase-in our development  
23 in a Phase A and a Phase B down below in the south,  
24 at the same time allowing us to capture the energy  
25 and the revenue we need to support our educational



1 programs.

2 And in the timing, when it's the right  
3 moment, it allows us to then remove those solar  
4 projects, bring in and continue the phasing of our  
5 larger Waiawa master plan development, and so allows  
6 us to be able to capture all that the aina has to  
7 offer to us.

8 And obviously, the educational benefits.  
9 So Jennifer touched upon that for a bit. She  
10 mentioned that within our agreement with the Waiawa  
11 Phase 2 Solar LLC developer, we specifically have  
12 them setting aside \$200,000 in funding specifically  
13 to help us develop a program regarding that can  
14 support our Native Hawaiian haumana, our students,  
15 and our crew, our teachers.

16 And separate from that, if -- I know that  
17 one of the things that I asked Jennifer to include  
18 as an exhibit to our motion was Exhibit 39, I think  
19 it is.

20 **MS. LIM:** That's correct. Exhibit 39.

21 **MS. SATO:** Yes. Thank you.

22 And I just -- so I call your attention to  
23 page 13 of Exhibit 39, which just emphasizes the  
24 amount of educational spend. Because we are a  
25 perpetual educational trust. So in our last fiscal

1 year, we spent \$438 million in educational spend.

2 People ask where did that money come from?

3 Part of that money comes from the fact  
4 that we need to be able to generate financial  
5 revenue off of our lands, and so the monies that we  
6 receive through this renewable solar project  
7 contributes directly to this educational spend. And  
8 as you can see through that spend, we've touched  
9 42,599.

10 From that spend, percentage of it,  
11 obviously, you see 231 million goes to support just  
12 our campuses and preschools. But 102 million go to  
13 support our community education, our scholarship  
14 program, our community investing with partnerships.

15 We need to be able to generate money, but  
16 at the same time if it matches our values like this  
17 renewable energy, that's exactly where we want to  
18 be. So is renewable energy important to us? Yes. It  
19 definitely is. Is this project important to us? Yes.  
20 It definitely is.

21 **MS. LIM:** Thank you, Dana. That response  
22 covered a range of things I'm sure commissioners  
23 will have questions on.

24 I want to telescope down to a topic that I  
25 anticipate there may be some questions on. And

1 that's the Waiawa master plan. All of these  
2 commissioners were there in January 2020, but  
3 whether they -- you know, they need a refresh on the  
4 Waiawa master plan.

5           You talked about it a little bit, how it's  
6 starting from the south and moving up. But would you  
7 please give the commissioners a little more  
8 information about the master plan and the status of  
9 KS' work toward that master plan at this point?

10           **MS. SATO:** Sure. I'd be happy to.

11           So in October, October 7th of 2019, KS  
12 actually submitted to the LUC our updated master  
13 plan and our updated schedule. And what also  
14 happened was that in January of 2020, one of our  
15 hearings with the commission, Walter Thoemmes, who  
16 is the managing director of our commercial real  
17 estate division, and it's his team that is  
18 overseeing the Waiawa master plan, he did a  
19 presentation before the LUC, and he did a PowerPoint  
20 presentation before the LUC.

21           Jennifer covered some of the -- some of  
22 it, and I covered a little bit of it, but I wonder  
23 if maybe Onaona, if you could put up Exhibit -- I  
24 think it's 37, which is the one that we saw earlier  
25 that has different phases, because I think that

1 would be important, again, for us to go through that  
2 with the commissioners.

3 So as we look at -- oh, is this 37? Is it  
4 38 then, maybe, that I was looking at? I'm sorry.  
5 Yeah. Okay. Sorry about that.

6 But what we're looking at for this project  
7 is, number one, is our Phase A. As all of you folks  
8 know, there is a deadline set for us to begin Phase  
9 A and our backbone infrastructure. We are working  
10 very hard to do that. We have retained a consultant,  
11 PBR, to begin some of the initial next steps for us  
12 as we work on the EIS, the state Land Use Commission  
13 district boundary amendment, and our rezoning  
14 entitlement process.

15 Initially, what PBR is starting off with  
16 is our community engagement and our community  
17 outreach plan. We've also been working very  
18 diligently with our state and county agencies  
19 regarding access, sewer, and water. As an example,  
20 with the city environmental services division, they  
21 specifically asked that we retain a consultant, and  
22 so we retained an engineering consultant to put  
23 together an offsite wastewater study.

24 We've also gone before -- we've also, I  
25 guess -- the other thing is we worked with the Board

1 of Water Supply. We've agreed on and are working  
2 with them on a location for a 10-million-gallon  
3 reservoir site. We've also confirmed with water  
4 resources for our entire project. We've worked with  
5 CWRM and have four wells that have been confirmed  
6 for the project.

7           So we've been definitely moving along,  
8 putting a lot of work into meeting the deadline that  
9 has been placed to us by the Land Use Commission.  
10 And so that's our Phase A. And as you can see from  
11 the exhibit in front of you, there are different  
12 phases. So we're -- Onaona right now has her cute  
13 little hand going round and round over. That's our  
14 Phase A.

15           The next section up above is our Phase B.  
16 And then you see to the left of that is the brown  
17 area -- and this is where our Phase I solar site is.  
18 And as Jennifer mentioned before, that brown area  
19 right there is actually where what we have  
20 identified as our Parcel A, which is 151 acres of  
21 the Phase I solar site.

22           And that section is not set to go into  
23 development, and that's our Phase C, until after  
24 2044, which is why we have the decommissioning set  
25 for December 31st, 2044.

1 And then when you go to the right of that  
2 brown area, you have that pink area. This is our  
3 Phase D. Then you have the purple area, which is our  
4 Phase E. And where Onaona was just kind of whipping  
5 around here is actually the shape by which our  
6 Parcel B is. So this is what the commission has  
7 already previously approved as the upper section of  
8 the Phase I solar site.

9 And as you look at that, you can see that  
10 Phase D and E will be a part of Parcel B, and Phase  
11 D and E are not scheduled to get to -- let's see, I  
12 think for Phase D, our infrastructure we're looking  
13 at is starting in 2060. And for Phase E, our  
14 infrastructure we're looking at is 2066.

15 So as you can see, we're building up from  
16 the bottom and going to the top. Now, what I suspect  
17 is that one of the questions, just based on what I  
18 heard in the earlier questions that were raised by  
19 the commission, is a sort of, you know, why is that,  
20 you know, are you replacing the solar? Is the solar  
21 taking the place of the housing? The answer to that  
22 is no.

23 The reason that we have to start from the  
24 south is because of access. And that's where the  
25 connection is with our DOT, so it makes sense for us

1 to start from there. It's going to take us a while  
2 to get ourselves up to the top of the mountain up  
3 there to work on the project.

4 Frankly, from my perspective, I think that  
5 KS has really done a wonderful job in utilizing the  
6 property, our land, in a way to allow us to do  
7 development while still generating opportunities to  
8 support renewal energy, to find financial return,  
9 and to provide educational benefits, all while this  
10 is happening.

11 So is that okay, Jennifer? I think I might  
12 have talked a little bit too long. Kala mai.

13 **MS. LIM:** Thank you, Dana.

14 And for the record, that's Exhibit 37 that  
15 Onaona has on the screen, and that's actually one of  
16 the same master plan exhibits that was submitted to  
17 the commission back in October 2019. And I see it's  
18 got the TOD circle. That was the TOD circle that I  
19 was looking for on an earlier exhibit.

20 So you're explaining, Dana, that that's  
21 why -- one of the reasons why development plans --  
22 you plan to have the development starting from the  
23 south of the KS property.

24 Dana, you alluded to this, but let's just  
25 get it on the record to be crystal clear. There is

1 an infrastructure deadline that was imposed under  
2 the last decision and order that this commission  
3 issued. That was the Clearway decision and order  
4 that came out in early 2020. Do you recall what that  
5 infrastructure deadline is, or would you like me to  
6 read it to you?

7 **MS. SATO:** Oh, I can certainly recall the  
8 date. It's December 31st, 2030, is the  
9 infrastructure deadline. And it was referred to as  
10 the backbone infrastructure for Phase A, so the very  
11 south portion of the Waiawa master plan that we had  
12 on the screen just a little bit ago. Yes.

13 **MS. LIM:** Right. Thank you. And I think  
14 you need to go on mute. Sorry, I was hearing an  
15 echo, because we're in the same room. Apologies to  
16 the other folks on this call.

17 **CHAIR SCHEUER:** We couldn't hear it.

18 **MS. LIM:** Exhibit 40 that I had up on the  
19 screen during my opening comments is a stipulation  
20 of conditions. And that's just a stipulation between  
21 Office of Planning and Sustainable Development and  
22 Kamehameha Schools. You know, whether the commission  
23 adopts those requests and whether they impose these  
24 conditions is entirely up to the commissioners. But  
25 I just want to call out condition --



1 It's actually further down, if you would,  
2 Ms. Thoene. And it's that one, the infrastructure  
3 deadline. You passed it. And there it is.

4 So that's condition 9. So is this the  
5 infrastructure that we were just talking about?

6 **MS. SATO:** Yes. Yes. Thank you.

7 **MS. LIM:** Okay. Great. So just for  
8 clarification, this is the same exact condition that  
9 the commissioners imposed on the Clearway decision  
10 and order. And through our stipulation with the  
11 Office of Planning and Sustainable Development,  
12 we're agreeing that if the commission approves this  
13 motion, the same condition would be imposed on this  
14 Phase I approval.

15 Let's turn back to kind of the nitty  
16 gritty on the solar farm. Let's talk about  
17 decommissioning. What are Waiawa Phase 2 Solar LLC's  
18 decommissioning obligations to Kamehameha Schools?

19 **MS. SATO:** I'm checking, because actually  
20 if we kept that Exhibit 40 up on the screen, the  
21 decommissioning was actually the next paragraph. And  
22 it is consistent with what we had agreed to, which  
23 is that at the time of decommissioning, the  
24 decommissioning will be following their operational  
25 timeframe, and within 12 months of that period, they

1 have to remove all structures above the ground as  
2 well as below the ground. And the structures would  
3 be everything that we would normally expect, which  
4 is the modules, the batteries, the transformers, the  
5 substations. So that's exactly.

6 And in addition to that, I guess, which is  
7 we also put into our agreement with the developer,  
8 Waiawa Phase 2 Solar LLC, that they need to provide  
9 us with decommissioning security, a letter of credit  
10 for 100 percent of the decommissioning costs, so  
11 that we can make sure that if something happens,  
12 that we will definitely be able to take care of the  
13 removal of the structures.

14 **MS. LIM:** Thanks, Dana. I guess my last  
15 question for you would be is there anything else you  
16 want the commissioners to know about this property,  
17 this project? Any last comments you want to give  
18 before you start hearing questions from others?

19 **MS. SATO:** I think it's there is -- and  
20 I've been working on this project for a few years  
21 already, and we're really excited about it. This  
22 developer has been a good partner with us. We really  
23 foresee our ability to just be able to meld  
24 everything that I just presented in today's  
25 testimony.

1 This project really has a way of just  
2 utilizing our land and being honorable to our aina  
3 for that use, and also being able to honor all these  
4 other benefits that come from it. And so, I just  
5 truly hope that the commission feels comfortable in  
6 approving our motion and feels comfortable in  
7 approving and accepting the Exhibit 40, which is the  
8 stipulated conditions that we've agreed to.

9 We really do mahalo the Office of Planning  
10 and Sustainable Development. You know, oftentimes we  
11 find ourselves knocking heads with them. It's not  
12 that we didn't knock heads, but at least when we  
13 knocked heads, we came to a really good place, and  
14 just appreciate the effort that their team put in,  
15 as well as our team, to find us in a good place  
16 before this hearing.

17 So mahalo nui for this opportunity, and  
18 I'm available for questions.

19 **CHAIR SCHEUER:** Thank you very much. The  
20 parties, and then the commissioners.

21 So we're going to start with the  
22 Department of Planning and Permitting. Do you have  
23 questions for the witness?

24 **MS. WEAVER:** We have no questions. Thank  
25 you.

1           **CHAIR SCHEUER:** Okay. OPSD?

2           **MR. YEE:** Maybe I'll start with a question  
3 to Ms. Lim about an appropriate witness to ask.  
4 There has been an issue raised regarding condition  
5 10 relating to whether the proposed condition 10  
6 would somehow absolve Kamehameha Schools performing  
7 a supplemental EIS. Is this the witness I could ask  
8 a question on as to her understanding of condition  
9 10?

10           **MS. LIM:** Thank you, Mr. Yee. I would say  
11 that that is a question that Ms. Kettley, who would  
12 be our third witness, would be more appropriate to  
13 respond to. And, of course, I could present legal  
14 argument or position on that as well. But not Ms.  
15 Sato.

16           **MR. YEE:** Okay. So the question, so if I  
17 could just state it to you today, is whether it is  
18 the intent of condition 10 to absolve Kamehameha  
19 Schools' obligation, of any existing obligation,  
20 under Chapter 343 to perform a supplemental EIS if  
21 required by the statute.

22           **MS. LIM:** I think if you frame it that way  
23 -- so you're not asking for a legal conclusion.  
24 You're asking whether Kamehameha Schools is somehow  
25 trying to avoid the preparation of a supplemental

1 EIS, if in fact that's required by law, and  
2 condition 10 is somehow trying to find a loophole. I  
3 think Ms. Sato could answer that question.

4 **MR. YEE:** Okay. Ms. Sato, did you hear  
5 that question?

6 **MS. SATO:** It is. I did hear that  
7 question.

8 **MR. YEE:** Can you answer that, please?

9 **MS. SATO:** Yes. I can. So certainly there  
10 are -- as part of our agreement, KS has transferred  
11 over to the solar developer requirements for them to  
12 perform according to what's required by law and  
13 otherwise.

14 But we also understand, Mr. Yee, that we  
15 are ultimately the landowner. And so, we understand  
16 that we are ultimately responsible if the  
17 developer's not there to do what needs to be done.

18 **MR. YEE:** So if a supplemental EIS is  
19 required under the statute, is it your understanding  
20 that KS is looking -- KS is not looking to this  
21 condition to absolve them without obligation; is  
22 that right?

23 **MS. SATO:** That is correct. KS will comply  
24 with what we need to get done, what's required to  
25 get done.

1           **MR. YEE:** Okay. And let me just ask you,  
2 if you can answer. If agreed to by your attorney --  
3 I understand things need to be wordsmithed. If there  
4 is language to make the county more comfortable with  
5 that understanding, as a general substantive matter  
6 -- again, subject to your attorney's wording -- it  
7 would be acceptable to have the wording to reflect  
8 your previous statement; is that right?

9           **MS. SATO:** Mr. Yee, we certainly will --

10          **MR. YEE:** Do I need to repeat that?

11          **MS. SATO:** You don't need to repeat that.

12 I think what you're basically asking me is if our  
13 attorney says it's okay, then it's okay. And the  
14 answer to that is, yes, it's okay.

15          **MR. YEE:** That's all the questions I have.  
16 Thank you.

17          **CHAIR SCHEUER:** Thank you, Mr. Yee.

18                   Commissioners, questions for Ms. Sato?

19                   Commissioner Wong?

20          **COMMISSIONER WONG:** Thank you, chair.

21                   Ms. Sato, I have a question. I understand  
22 your statement that says Kamehameha Schools has an  
23 obligation of both the housing and the electricity,  
24 the energy issue. But, you know, I'm perplexed. I  
25 will tell you the truth.

1           When you say 2066 for the last phase, that  
2 kind of -- I'm going to be direct -- it kind of blew  
3 my mind to say that you're going to -- you know,  
4 affordable housing is needed now. I know energy is  
5 needed now. But we have all these needs. Could it be  
6 concurrently?

7           **MS. SATO:** So, Mr. Wong, I understand the  
8 perplexity when we think of the year 2066 and we  
9 think of how far in advance that is. I mean, that's,  
10 you know, we're talking about 44 years away.

11           But within those 44 years, there's lots of  
12 things that are going to be happening on our lands.  
13 And I suspect that there's also other projects that  
14 will be busy working on this.

15           What we're doing is we're allowing the  
16 time for us to be able to meet the deadlines that  
17 even the LUC themselves, you folks, have put before  
18 us. Phase I, Phase A, things are happening already,  
19 and more things are going to be happening by the  
20 2030 deadline for (indiscernible).

21           Things are going to be moving. And we --  
22 as we -- if things could move faster, they would.  
23 But the challenge is that right now this is, as we  
24 work through our plan, this is -- it's not that far  
25 off in the future.

1 It gives our lands the opportunity to get  
2 itself ready, and there's a lot that needs to be  
3 done in order to get this development done, the  
4 master plan.

5 **COMMISSIONER WONG:** So the other question  
6 I have, then -- sorry, you may not be the correct  
7 one to ask the question, but this is the affordable  
8 housing issue. And you said Phase I is being started  
9 already, or Phase A, sorry. And then you're going to  
10 go on with 2066.

11 As you know, in the news recently we have  
12 the issue about the Red Hill issue and the water,  
13 the aquifer underneath Red Hill. So what would  
14 happen if, let's say, Board of Water Supply says  
15 show me the water -- you know, like how Maui you  
16 have to drill a well that's different. Wouldn't  
17 that, you know, change the whole plan? I mean, how  
18 would, you know, how would this affect everything?

19 **MS. SATO:** So, I guess, first of all is  
20 just that -- what I had mentioned earlier is that at  
21 this point in time in our conversation with the  
22 Board of Water Supply, with CWRM, we actually have  
23 confirmed our water resources for the entire  
24 project. So we're in a different category than those  
25 new projects that are coming up that still have to



1 fight and go through that.

2           What's happening at Red Hill is extremely  
3 painful to everyone. And people may think that this  
4 doesn't have an impact on projects, but it has, as  
5 you mentioned in the newspaper, but just the long-  
6 term impact that it has on our aina and our people  
7 is tremendous.

8           And let me take a step off of that, off of  
9 that soapbox, because I can certainly get sucked  
10 into that. But what you're actually discussing is  
11 issues that may come up in the future that we  
12 haven't planned for. We're trying our very best  
13 right now to plan for everything.

14           And when we look at this solar project as  
15 an example, we're able to contribute to the state,  
16 but also to the people, and also just the  
17 environmental benefits is outstanding. And it's our  
18 way to be able to contribute to that, too.

19           And that's something that we know is a  
20 given and can happen today versus -- and we're  
21 trying to prepare the best we can for what might be  
22 unsuspecting things that pop up.

23           I'm just thankful that our team has been -  
24 - our commercial real estate team, managing under  
25 Walter Thoemmes, was able to at least get the water

1 issue resolved, unbeknownst to us that this Red Hill  
2 issue was going to pop up.

3 But there's always going to be unexpected  
4 things, and I appreciate that recognition.

5 **COMMISSIONER WONG:** You know, Ms. Sato, I  
6 just want to say thank you, because it makes me feel  
7 better, at least. You know, this issue has been  
8 resolved, especially the Red Hill -- not the Red  
9 Hill, but you know, the water supply for your land.

10 It's just in the future I know that future  
11 Chair Giovanni will review it, too, because I won't  
12 be here, but I just want to say thank you.

13 Thank you, chair.

14 **CHAIR SCHEUER:** Thank you, Commissioner  
15 Wong.

16 Commissioners, questions for Ms. Sato?

17 Commissioner Cabral?

18 **COMMISSIONER CABRAL:** Yes. Thank you, Ms.  
19 Sato, for the information. Now, I'm trying to -- I  
20 have so much data with so many years of information.

21 So as I understand it, Kamehameha Schools  
22 was not the original owner/developer or the party  
23 that got the petition back in 1988. And I'm looking  
24 through my notes, of which I printed only some. Can  
25 you update me? What year did Kamehameha Schools step

1 into this position? You or Ms. Lim know that?

2 **MS. SATO:** Yeah. Maybe Ms. Lim can help me  
3 along with that. I'm wondering when you say "step  
4 into this position", are you saying when we actually  
5 --

6 **COMMISSIONER CABRAL:** The landowner. When  
7 did Kamehameha become the landowner?

8 **MS. SATO:** We've always been the -- yeah,  
9 we've always been the landowner for this -- for  
10 these lands, yeah.

11 **COMMISSIONER CABRAL:** Oh, okay.

12 **MS. SATO:** Commissioner, I think what you  
13 may be referring to is the fact that we did have  
14 developers along the -- over the years that we had  
15 negotiated agreements with that were supposed to be  
16 moving forward with things. So I believe that was in  
17 1988, so.

18 **COMMISSIONER CABRAL:** Thank you. Thank you  
19 for the clarification. I knew there were other names  
20 involved with the initial petition. Okay.

21 So as the landowners, though, when you  
22 made arrangements with other developers to step in,  
23 whatever action they took then, I would assume that  
24 you folks inherited that position, or had to  
25 maintain that position as the landowners.

1 So I'm going back to the housing, because  
2 housing is kind of my thing. And I do want to  
3 somewhat -- my understanding is you are not looking  
4 at 7,900-plus houses, all affordable housing. You  
5 were just looking at housing in general; correct? Is  
6 that correct? Just not all affordable housing, all  
7 low-income affordable housing; is that correct? The  
8 housing -- the original plans were for general  
9 housing, not just affordable housing?

10 **MS. SATO:** I think -- well, I mean, so  
11 part of the reason why I'm hesitating is because I'm  
12 not directly on the commercial real estate  
13 development team. I do know that our plan does  
14 involve housing in general and that we are looking  
15 at affordable housing.

16 If you're asking the question if the  
17 entire plan is going to be on affordable housing, I  
18 don't know the answer to that.

19 **COMMISSIONER CABRAL:** Okay. Well, from the  
20 original docket -- or from old documentation, it  
21 looked like it was a variety of types of housing, so  
22 not just -- I mean, because the term "affordable  
23 housing" has, in my opinion, just become the  
24 catchphrase for all housing, which in fact brings  
25 with it a whole lot of other concerns for a

1 community, which I won't go into at this time,  
2 because it's my world there.

3           So anyway, housing, though, in general, my  
4 thing is that if you were to bring in approximately  
5 8,000 houses into any type of community or into any  
6 of these islands, you would bring in so much housing  
7 that that would make all housing somewhat more  
8 affordable.

9           You know, it's the supply and demand. If  
10 we increase the supply of housing, therefore the  
11 demand will have a greater -- be met in a better  
12 manner, and therefore the cost of that material can  
13 come down. So everything, every house, will help the  
14 affordable housing situation, but not necessarily be  
15 government affordable housing, which has become what  
16 everybody talks about now, bringing in federal money  
17 to create low-income housing.

18           So anyway, just wanted to clarify if there  
19 was any -- where you thought that was. And since  
20 that's not your thing, it's okay.

21           I'm just concerned that I'm feeling like  
22 the whole -- all this 34 years of history starts out  
23 as housing. Obviously, 34 years ago, no one was  
24 thinking of massive solar photovoltaic panels and  
25 that, although I would assume that if you built

1 8,000 houses and put photovoltaic panels on all of  
2 them, you would create quite a massive amount of  
3 energy at that time also.

4 I'm just concerned that where there's no  
5 guarantee in this proposal that -- and no  
6 obligation, as I see it, in this proposal that's  
7 going forward, that there will be any additional  
8 housing built, clearly, not in my lifetime, but in  
9 anyone's lifetime because of the -- it seems like  
10 the land is being -- going to be potentially now  
11 solar, and then maybe something later on is more  
12 cost effective.

13 And I'm just concerned that we're getting  
14 away from what the LUC, your developers, your  
15 partners, and the LUC, and the community, the  
16 community that supported this years ago, all thought  
17 that this was going to bring in housing to a  
18 community. And now we're doing kind of the shell  
19 game, and it's all being changed, and potentially  
20 changed forever with no ability to go back to  
21 housing.

22 So I don't know if you have any comments  
23 on that. What you say sounds nice, that you really  
24 want to do the housing and there's -- I'm not sure  
25 if I read that into the petition and the obligations

1 that are being presented at this time.

2 **MS. SATO:** Thank you very much,  
3 commissioner, for sharing. I think there's a few  
4 things that pop into my mind from what you  
5 mentioned.

6 First of all, I do know that there's going  
7 to be a mixture of housing there. Secondly, things  
8 are happening, and housing is going to start in  
9 Phase A. It's not that housing is not going to start  
10 until we get to Phase C, D, E. It's going to happen  
11 before that.

12 So the other thing, and I was just  
13 reminded of it recently, because you're right, I  
14 wasn't involved in the 1988 decision and order that  
15 took place. But at that time, we were looking at  
16 putting in golf courses. Today, we would never -- we  
17 won't consider that.

18 So time -- you're right there. At the  
19 time, those seemed like the right things to do at  
20 that time, and to some degree, it's a blessing in  
21 disguise that things happened the way they happened  
22 so that we can have -- instead of golf courses, we  
23 can have more homes. We can have a school there.

24 So there are always the pluses and  
25 minuses, and for us at KS, we're always looking for

1 the pluses, and we're always looking to make things  
2 better in the future. So there will be housing. We  
3 are working on that with the Phase A backbone  
4 infrastructure being put in by 2030. There are  
5 things that are going to be happening way before  
6 2060 and 2066.

7           So that's why I asked to have that exhibit  
8 put up, because I think what happens even with  
9 myself is that we focus on the solar farm and that  
10 land area, and we don't realize that there's a lot  
11 of other activity that's happening below it to  
12 connect us to what we need for the island itself.

13           So I would just ask you to consider that  
14 very much so, that it's more than just a story. You  
15 folks have put deadlines for us. We are working  
16 really diligently to hit those deadlines. And you  
17 are going to see stuff within your lifetime because  
18 -- within your lifetime.

19           **COMMISSIONER CABRAL:** Well, thank you very  
20 much. And I appreciate your commitment and your  
21 sincerity. Thank you.

22           **CHAIR SCHEUER:** Thank you, Commissioner  
23 Cabral.

24           Commissioners, questions for the witness?

25           Commissioner Giovanni? And I'm just going



1 to note that we might stop partway into this.

2 **COMMISSIONER GIOVANNI:** Thank you, chair.  
3 I'll try to finish by 10:45. I only have a couple of  
4 questions, kind of picking up on where Commissioner  
5 Cabral was headed.

6 Ms. Sato, thank you for coming back before  
7 us, but I hope you can appreciate the skepticism  
8 that some of us might have about whether housing  
9 will ever be built on this property.

10 It's been turned from a project that was  
11 originally envisioned to produce a lot of housing at  
12 a cost to develop to one where we have an interim  
13 use of 30-plus years for something totally  
14 different, which provides income to Kamehameha  
15 Schools and the same -- provides income that could  
16 be used for backbone development.

17 And so, my first question is when do you  
18 think the first house will ever be built on any part  
19 of this property?

20 **MS. SATO:** Well, I do know that the  
21 backbone infrastructure, which Jennifer put up on  
22 the screen, has the specific descriptions of what  
23 all those things are going to be -- are going to be  
24 there by 2030, so.

25 **MS. LIM:** Excuse me for the interruption.

1 Should we put up Exhibit 37?

2 **MS. SATO:** It might be helpful, because  
3 then we can look at exactly what those backbone  
4 constructions are. Thank you very much, Jennifer. I  
5 guess also what I was thinking about was --  
6 actually, Jennifer, what I was looking for was the  
7 Exhibit 40.

8 **COMMISSIONER GIOVANNI:** I think I could  
9 help you.

10 **MS. SATO:** Yeah. Okay, sorry about that,  
11 commissioner.

12 **COMMISSIONER GIOVANNI:** The backbone  
13 consists of primary roadways, access points,  
14 internal roadways, on and off-site water, electrical  
15 system improvements, and stormwater drainage and  
16 other utility system improvements by December 31,  
17 2030, exclusively for Phase A.

18 **MS. SATO:** Yeah. Thank you very much,  
19 commissioner.

20 And also, thank you for putting that up on  
21 the screen as well, Jennifer.

22 So we do know that the -- that the  
23 backbone infrastructure is going to be in place by  
24 then. And what we're -- and as you can see from just  
25 even the sketch that's in front of us is that

1 housing is planned within that Phase A. I don't know  
2 the specific dates, commissioner. I wish I could  
3 tell you that, but I just know that we are pushing  
4 to do that.

5 This project is equally as important to  
6 us, because the housing that we're providing is to  
7 everyone here, so, yeah.

8 **COMMISSIONER GIOVANNI:** So you not have an  
9 answer for when the first house might be built on  
10 any portion of this entire parcel?

11 **MS. SATO:** I don't have that answer, but I  
12 can certainly get that answer for you, to see if  
13 there is in fact a specific date. I just know that  
14 we have the backbone infrastructure that's going to  
15 be in by that point.

16 By that point, commissioner, we'll have  
17 spent millions of dollars, millions of dollars to be  
18 able to put that in. And Kamehameha is going to be  
19 very conscious of the fact that we're spending our  
20 trust endowment money along with the developer to do  
21 this, so.

22 **COMMISSIONER GIOVANNI:** So I have to admit  
23 I'm a little confused by -- I can't easily recall  
24 all of the phases and parcel designations. But, for  
25 example, this is Waiawa Phase 2 solar, but it's

1 being built on the Phase I parcel that was earmarked  
2 for solar. Is that correct, Jennifer?

3 **MS. LIM:** It is.

4 **COMMISSIONER GIOVANNI:** Okay. And then,  
5 secondly --

6 **MS. LIM:** Mr. Giovanni --

7 **COMMISSIONER GIOVANNI:** Secondly, we're  
8 talking about Parcel A through Parcel E that  
9 proceeds from south to north; is that correct?

10 **MS. SATO:** It's actually Phase -- it's  
11 actually Phases A to E, which is the building phase  
12 under the Waiawa master plan. And so Parcel A and  
13 Parcel B are part of the Phase I solar site that was  
14 approved previously. And so, the Parcel A is part of  
15 the Phase C, where you see the hand circling. And  
16 then Parcel B is inclusive of the pink and the  
17 purple area there, which are part of Phases D and E.

18 **COMMISSIONER GIOVANNI:** So tell me where  
19 Phase B is.

20 **MS. SATO:** Phase B is the green.

21 **COMMISSIONER GIOVANNI:** Is there any solar  
22 development on Phase B?

23 **MS. SATO:** There is no solar development  
24 on Phase B.

25 **COMMISSIONER GIOVANNI:** Would Kamehameha

1 Schools be amenable to a condition similar to the  
2 one that we just cited that would require backbone  
3 infrastructure to be completed construction on Phase  
4 B as a condition for approval of the current instant  
5 request?

6 **MS. SATO:** Commissioner Giovanni, so this  
7 is -- this is the real -- this is the challenge that  
8 we have. We're trying to get a solar project that  
9 has already been approved in an area that has  
10 already been approved many years ago.

11 The only reason why we are coming back to  
12 you folks, as Jennifer mentioned at the beginning,  
13 is because our original solar developer went  
14 bankrupt. And so, they were to develop Phase I and  
15 Phase II.

16 And so, I struggle to understand why the  
17 commission would want to continue to tie our hands  
18 in order for us to be able to get a renewable  
19 project in place that meets the type of deadlines  
20 and meets the goals of not only KS' renewable energy  
21 goals, but the statewide goals, the national goals,  
22 and continues to not trust the work that we've done  
23 in just this past year in order to meet the 2030  
24 Phase A.

25 **COMMISSIONER GIOVANNI:** I'm not saying

1 that at all, Ms. Sato.

2 **MS. SATO:** And I apologize, but it feels  
3 that way, Commissioner.

4 **COMMISSIONER GIOVANNI:** It may feel that  
5 way, but that's not at all what I said. I had a  
6 pretty simple question.

7 If you go back to the hearings in which we  
8 approved the Phase A -- pardon me, the first solar  
9 project, the one that was approved a year or so ago  
10 on February 11th, 2020, there was a lot of concern,  
11 and the concern came from the Office of Planning,  
12 about whether or not there would ever be development  
13 of infrastructure within the timeframe, and so the  
14 10-year timeframe was put in place for that.

15 And the commission agreed with the Office  
16 of Planning and their request to include that  
17 condition.

18 You're coming back before us again for  
19 another incremental solar. We don't see another  
20 incremental backbone development. So my question is  
21 whether you would be amenable to a condition that  
22 further committed Kamehameha Schools to backbone  
23 development which would support eventual housing on  
24 this program -- on this project.

25 **CHAIR SCHEUER:** It's 10:46, so I'm going

1 to allow Ms. Sato to do an initial response, and  
2 then I unfortunately have to ask that we go into  
3 recess.

4 **COMMISSIONER GIOVANNI:** That's fine with  
5 me. Thank you.

6 **MS. SATO:** Thank you, chair.

7 So my answer to that is KS is not amenable  
8 to that at this point. We have to come back, and we  
9 have to do an EIS as part of the stipulation that we  
10 put as Exhibit 40. We're looking at a February 11,  
11 2025, date. There's opportunities that will allow  
12 the commission to know that things are moving  
13 forward. And so, we would not be amenable to that.

14 **COMMISSIONER GIOVANNI:** Thank you.

15 **MS. SATO:** Thank you.

16 **CHAIR SCHEUER:** Thank you very much. We'll  
17 continue with questions for the witness by  
18 Commissioner Giovanni at noon. We are in recess.

19 **(Recess taken from 10:47 a.m. - 12:00**  
20 **p.m.)**

21 **CHAIR SCHEUER:** Aloha. We are back in  
22 session after our lunch recess. Mahalo to everyone  
23 for accommodating my unexpected schedule change.

24 When we left off, Commissioner and Vice  
25 Chair -- first Vice Chair Dan Giovanni was

1 questioning the witness, Dana Sato from Kamehameha  
2 Schools, so please continue. Ms. Sato had just  
3 responded to Commissioner Giovanni.

4 **COMMISSIONER GIOVANNI:** Thank you, chair.

5 I'd like to -- and this might go better to  
6 Ms. Lim. I'd like to clarify the record, if I can,  
7 where I'm a little confused.

8 I think in your opening remarks, Ms. Lim,  
9 you implied that SunEdison went bankrupt after the  
10 PUC denied their approval for this project. My  
11 recall is that SunEdison went bankrupt due to  
12 mismanagement of its business on the mainland prior  
13 to the PUC approval, and it fell -- and the whole  
14 thing fell apart.

15 Could you clarify what you mean about the  
16 SunEdison and that approved project and the fate  
17 that you understand it went through?

18 **MS. LIM:** Sure, Commissioner Giovanni.

19 This is Jennifer Lim responding for Kamehameha  
20 Schools. I'm actually not in a position to talk  
21 about SunEdison's business or what problems they  
22 faced. I didn't work for SunEdison.

23 What I was reporting was that after this  
24 commission authorized the two solar farm sites, and  
25 SunEdison was the solar developer for those two



1 solar farm sites, SunEdison then went to the PUC,  
2 was unable -- excuse me, I guess it would have been  
3 HECO went to PUC to get approval for their power  
4 purchase agreement with SunEdison. And the PUC did  
5 not approve that PPA.

6           Sometime thereafter, and I don't have, you  
7 know, the time in my mind with any precision, I know  
8 SunEdison stopped operating and went bankrupt. But  
9 from the petitioner, from the landowner's  
10 perspective, we knew we had a solar developer who  
11 was going to go forward with those two projects.  
12 They then ran into some trouble, and then all of a  
13 sudden, they ran into, you know, a lot more trouble  
14 and just simply were not able to perform. That's all  
15 I know about SunEdison.

16           **COMMISSIONER GIOVANNI:** So I agree with  
17 some of that. But do you mean to imply that they  
18 went bankrupt because the PUC did not approve the  
19 project that these --

20           **MS. LIM:** That is -- I am not implying  
21 that. Actually, as I said, I really don't know what  
22 sort of business practices or what their financial  
23 condition was. And whether and to what extent that  
24 denial of the PPA was material, I'm just not in a  
25 position to comment.

1 But if it sounded as if I was making that  
2 implication, let me clarify that I was not making  
3 that implication. I'm not saying that there was a  
4 connection between those two events.

5 **COMMISSIONER GIOVANNI:** Thanks for that  
6 clarification. I agree with your withdrawal of that  
7 apparent implication.

8 You know, this commission has, as I think  
9 you probably know, had before it numerous solar  
10 projects, and they all come before us claiming  
11 urgency in our moving forward to approve these  
12 projects, whether it be a special use permit or some  
13 other mechanism.

14 And yet, we have unfortunately experienced  
15 in Hawai'i several of these projects not  
16 materializing and that urgency dissipating quite  
17 quickly.

18 So here we are again with some urgency,  
19 and I think the urgency that you're referring to in  
20 this instant case has to do with meeting of the  
21 renewable portfolio standard by the Hawaiian  
22 Electric Company; is that correct?

23 **MS. LIM:** The urgency that I referenced in  
24 my opening statement was the goal of 100 percent  
25 renewable energy by 2045. Of course, this solar

1 developer has certain timeframes that I'm sure Mr.  
2 Molinari can discuss when we call him as a witness.

3 **COMMISSIONER GIOVANNI:** So the current  
4 requirement of the state law for a renewable  
5 portfolio standard is to achieve 30 percent  
6 renewable for Hawaiian Electric by 2020, and it's  
7 currently -- and to achieve 40 percent by 2030,  
8 which is several years from now. And it's currently  
9 at almost 39 percent.

10 Would you say that -- are you suggesting  
11 that Hawaiian Electric is at risk of achieving its  
12 mandated levels of renewable energy, and this  
13 project is necessary at this time to achieve it?

14 **MS. LIM:** I know that if a 100 percent  
15 renewable energy is the goal by 2045, in looking at  
16 the Hawai'i State Energy Office's letter, where it  
17 indicated -- I think it was about a 30 percent  
18 number, not the 39 that you just recited -- it still  
19 seems like there's a good deal of ground to cover in  
20 order to hit that 100 percent renewable energy goal.

21 **COMMISSIONER GIOVANNI:** No doubt. I fully  
22 agree with you. But I'm speaking to the urgency that  
23 this project has to get into the ground.

24 There was also some urgency expressed by  
25 one of the witnesses before us today that it was

1 necessary to have this project to meet the power  
2 that would be lost by the coal plant, which is  
3 retiring at the end of September of this year, again  
4 speaking to the urgency. But that's got nothing to  
5 do with renewable energy. That has to do with the  
6 adequacy of supply as opposed --

7           So are you suggesting that this project,  
8 that we have to act on it in an urgent -- this  
9 commission has to act on it in an urgent manner in  
10 order to assure that there's an adequate supply of  
11 power for O'ahu, or that Hawaiian Electric Company  
12 would be at risk of not meeting its renewable  
13 portfolio standard as mandated by law?

14           **MS. LIM:** That's probably a more complex  
15 question, Commissioner Giovanni, than I can respond  
16 to in any depth. So let me tell you what I know.

17           I know that the coal power plant is due to  
18 retire soon, and I know that this renewable energy  
19 project will supply some portion of the energy that  
20 could have otherwise been provided through that coal  
21 power plant. But this is just one piece of the  
22 larger mosaic of renewable energy.

23           To say that this project must hurry up and  
24 get approved because if it doesn't, then, you know,  
25 everything just blows up and there's no possibility

1 for Hawai'i to meet its renewable energy goals, I  
2 think that would be quite an overstatement.

3 I think that this project is a valuable  
4 contribution. The Hawai'i State Energy Office, you  
5 know, stated that as well. It's a contribution. It's  
6 an important contribution, but it's just one of many  
7 projects that are both underway, and I'm sure that  
8 you'll be seeing, and other regulators see, to help  
9 fulfill the ultimate goal.

10 Am I responding to your question, though,  
11 commissioner?

12 **COMMISSIONER GIOVANNI:** Yeah. And I'm  
13 tending to agree with your last statement, Ms. Lim,  
14 in that in the grand scheme of things, projects such  
15 as this, utility- scale solar projects, are  
16 critically important to our state attaining its  
17 ultimate goal of 100 percent renewable energy by  
18 2045.

19 My only question was -- and again, it's  
20 not just this application, but several applications  
21 that have come before us for utility-scale solar  
22 projects. All speak to the absolute urgency that we  
23 approve these things so that they can get tax  
24 credits, so that they can get a shovel on the ground  
25 so that they can -- so that the state can achieve

1 its goals.

2 But the record has shown that most of  
3 these projects get delayed, and the urgency is never  
4 there. So it speaks to our ability to give due  
5 process to these applications. And I'm only speaking  
6 to the immediate urgency for approval, and not to  
7 the long-term importance or how these projects fit  
8 into our grand scheme.

9 So I would agree with what you said in  
10 your last statement.

11 **MS. LIM:** Thank you. You know, I'll just  
12 add, and maybe this is not directly responsive, but  
13 I think I would understand as a commissioner or any  
14 decisionmaker when you're faced with people,  
15 everybody's telling you they're in a big rush, it's  
16 so important, it's so important, could you just  
17 please give me the answer yes?

18 I will say that the Clearway project, the  
19 last time that you saw some of us, you know, in this  
20 docket that you approved in February 2020, that  
21 project is underway. Even with the supply chain  
22 difficulties that occurred because of COVID, they  
23 are moving forward. They haven't hit their  
24 commercial operations date yet, but the project is  
25 moving forward.

1 So when I said in my opening remarks that  
2 we are grateful for the work and approval this  
3 commission has done and granted us before, I mean  
4 that sincerely. You have authorized a real project,  
5 and that real project is moving forward.

6 **COMMISSIONER GIOVANNI:** Agreed. It is  
7 moving forward, as are some others. But they're all  
8 behind schedule, or at least the schedules that were  
9 presented to us when they were seeking our approval  
10 for them. But they are moving forward, I would  
11 agree. The sooner the better.

12 I'd like to return just briefly to my  
13 questioning for Ms. Sato where we left off.

14 So I hesitate to go into the details of  
15 the master plan that was presented to us, but my  
16 understanding is that housing development and actual  
17 construction of housing would be possible on  
18 portions of this greater parcel without -- in  
19 parallel with the terms of the existence for these  
20 two solar farms; is that correct?

21 **MS. SATO:** That is correct, commissioner.

22 **COMMISSIONER GIOVANNI:** So in other words,  
23 we wouldn't have to wait until 2059 or 2054 or 2066,  
24 if you will, before we start seeing housing on this  
25 property, despite the fact that there will still be

1 operating solar farms in your vision.

2 **MS. SATO:** Right. Because what we're  
3 looking at is we have Phase A and Phase B that would  
4 be put in before we hit Phase C and D and E, which  
5 is where the solar project is located.

6 **COMMISSIONER GIOVANNI:** Correct. So were  
7 you able to get confirmation on when the first house  
8 might be built during the intervening recess?

9 **MS. SATO:** To be quite honest,  
10 Commissioner Giovanni, the conversation didn't focus  
11 on that. The conversation actually focused on your  
12 other question that you asked of me with regard to  
13 whether or not KS would be amenable to a deadline  
14 being set for the backbone infrastructure for Phase  
15 B.

16 So that took up the majority of our  
17 conversation during my lunch break. So it was a  
18 working lunch break for that very reason, which is  
19 good.

20 So the team, you know, we decided, after  
21 we spoke and discussed it, was that KS would be  
22 amenable to setting the backbone infrastructure  
23 deadline for Phase B as long as it's reasonable and  
24 is practical.

25 And it's, you know, as we went back and



1 forth about it, what it boils down to is that there  
2 has been already the conditions established for  
3 Phase A, setting that December 31st, 2030, deadline.  
4 The work that we're going to be doing for the  
5 backbone infrastructure for Phase A will encompass  
6 work that's going to be needed to be begun in  
7 working on for Phase B.

8 So with that, I'm coming back to say that  
9 we are amenable to setting a December deadline as  
10 long as it's reasonable and it's workable.

11 **COMMISSIONER GIOVANNI:** December of what  
12 year?

13 **MS. SATO:** We didn't set a specific year,  
14 but --

15 **CHAIR SCHEUER:** Sorry. I don't think that  
16 Ms. Sato said the word "December", but it kind of  
17 sounded like December.

18 **COMMISSIONER GIOVANNI:** Oh, okay.

19 **MS. SATO:** Yeah, yeah. I didn't say  
20 December. I was just -- if I did say December, it  
21 was in reference to the Phase A December 31st, 2030.

22 **COMMISSIONER GIOVANNI:** Oh, I got you.

23 **MS. SATO:** Thank you, Mr. Chair.

24 **COMMISSIONER GIOVANNI:** Thank you, chair.

25 Thank you, Ms. Sato. It did sound like you

1 said December to me.

2 But you are amenable to committing to a  
3 completion of construction for backbone  
4 infrastructure in Phase B within a reasonable  
5 timeframe. I think that's what you said; is that  
6 correct?

7 **MS. SATO:** That is correct.

8 **COMMISSIONER GIOVANNI:** So what do you  
9 think is a reasonable timeframe?

10 **MS. SATO:** We didn't actually talk about a  
11 specific date there, commissioner.

12 **COMMISSIONER GIOVANNI:** Okay. So the  
13 discussion that occurred in our hearings in 2019 was  
14 largely driven by the Office of Planning, referred  
15 to completion of infrastructure in accordance with a  
16 nominal 10-year guideline from the decision and  
17 order.

18 Would you be amenable to backbone  
19 infrastructure on Phase B to be completed within 10  
20 years of a decision and order on the instant  
21 petition that's before us today?

22 **MS. SATO:** No. I think that would be  
23 hugely difficult for us, commissioner.

24 **COMMISSIONER GIOVANNI:** Why is that so  
25 difficult?

1           **MS. SATO:** The combination of the expense  
2 plus the timing and all the requirements that we  
3 need to meet in order to do both phases at the --  
4 when we're -- you know, though we didn't talk as a  
5 group about it, I was actually thinking that based  
6 on what happened at the last hearing that we would  
7 be looking at at least 10 years tacked on from 2030.  
8 That is the --

9           **COMMISSIONER GIOVANNI:** So in other words,  
10 you --

11           **MS. SATO:** So that was me. I have not  
12 spoken to the team about that, specifically, but  
13 just recalling that very -- I was there as well at  
14 the 2019-2020 hearing -- that that's what I had in  
15 mind.

16           **COMMISSIONER GIOVANNI:** We can -- we'll  
17 debate later about the reasonableness of what you  
18 have in mind. I don't mean to take your time here,  
19 but I do very much appreciate that during the recess  
20 you took this matter seriously and conferred among  
21 you and came back to revise your position on that.  
22 So thank you very much for that.

23           I'm going to hold additional questions  
24 until I hear more witnesses, chair. Thank you.

25           **CHAIR SCHEUER:** Thank you very much,

1 Commissioner Giovanni.

2 Commissioner Ohigashi? Followed by  
3 Commissioner Chang.

4 **COMMISSIONER OHIGASHI:** I have a question,  
5 and I'll be facing to my left, but it's involving  
6 Exhibit 37, which I have on another screen on my  
7 left, so it's. Okay. Exhibit 37 --

8 **MS. SATO:** I'm sorry to interrupt, but Ms.  
9 Lim can pull that up so that everybody can look at  
10 it.

11 **COMMISSIONER OHIGASHI:** You can. Yeah. I  
12 had a hard time seeing it on the small screen, so  
13 I'm looking at it here.

14 But Exhibit 37, it says Phase C. And the  
15 brown portion under that has a 3 on -- has these  
16 lines on it.

17 **MS. SATO:** Yes.

18 **COMMISSIONER OHIGASHI:** So just refresh  
19 me. Where is the solar panels going in that are  
20 going to be decommissioned earlier?

21 **MS. SATO:** So can you see, Commissioner  
22 Ohigashi, where the hand is on this? You see it's  
23 following the red outline there, and it goes up into  
24 the pink? So this is Parcel A that is circling right  
25 now.

1           **COMMISSIONER OHIGASHI:** Okay. I just  
2 wanted to be clear on that.

3           **MS. SATO:** Yeah.

4           **COMMISSIONER OHIGASHI:** The second thing I  
5 want to be clear on is that the red lines on this  
6 map show where things are -- the urban land use  
7 boundaries are; is that right?

8           **MS. SATO:** Yes. It does.

9           **COMMISSIONER OHIGASHI:** And those little -  
10 - I don't know, but the shaded lines or the lines  
11 that are -- the lines that are used. Those are the  
12 expansion areas that you're looking at to file for;  
13 correct?

14           **MS. SATO:** I'm not sure, Commissioner  
15 Ohigashi, if -- are you talking about the lines that  
16 are within the position or the --

17           **COMMISSIONER OHIGASHI:** Yeah. Number 5 --  
18 3, 4, and 5.

19           **MS. SATO:** Oh, okay. Okay. So those are  
20 actually lands that are outside of that boundary but  
21 within the lands that we own and that we are -- that  
22 are part of our bigger master plan.

23           **COMMISSIONER OHIGASHI:** And are those --  
24 according to my understanding is those that you're  
25 going to apply for a boundary amendment; is that

1 right?

2 **MS. SATO:** Yes. That's exactly correct.  
3 That would be part of our boundary amendment.

4 **COMMISSIONER OHIGASHI:** Focusing on Phase  
5 A.

6 **MS. SATO:** Yes.

7 **COMMISSIONER OHIGASHI:** Are you applying  
8 for these boundary lines prior to the 2030 deadline  
9 infrastructure?

10 **MS. SATO:** Yes. Most definitely. Yes. Most  
11 definitely.

12 **COMMISSIONER OHIGASHI:** And would it be  
13 safe to assume that the request for -- that these  
14 areas, that if they're designated urban, would be  
15 subject to the 2030 deadline in the other areas?

16 **MS. SATO:** Yes. You're talking -- just to  
17 make sure that I understand, commissioner. So the  
18 yellow portion which is reflected as the Phase A,  
19 your question is whether the yellow -- the entire  
20 yellow portion would be part of the backbone  
21 infrastructure that has to be completed by December  
22 31st, 2030; is that your question?

23 **COMMISSIONER OHIGASHI:** Yes.

24 **MS. SATO:** And the answer to that is yes.

25 **COMMISSIONER OHIGASHI:** I'm looking at the

1 map, and it would appear to me that construction of  
2 the backbone infrastructure can take place within  
3 the lower portion, that urban area. Would that  
4 proceed prior to -- the construction in that area  
5 prior to petitioning for the urban -- for urban use.

6 **MS. SATO:** I apologize, commissioner.  
7 Could you -- could you ask the question one more  
8 time? Yeah. I apologize for that.

9 **COMMISSIONER OHIGASHI:** Okay. I'll make it  
10 more simpler. I'll simplify it. Areas 4 and 5 are  
11 going to be petitioned for urban use out of  
12 agriculture, right?

13 **MS. SATO:** Yes.

14 **COMMISSIONER OHIGASHI:** So would that  
15 petition come before the initiation of any  
16 construction for the backbone infrastructure?

17 **MS. SATO:** Yes. It will.

18 **COMMISSIONER OHIGASHI:** Will that --  
19 assuming that you do not obtain urban use on the  
20 petition -- because it's a petition that can either  
21 be granted or denied; right? Assuming that you don't  
22 obtain that, would that affect development of Phase  
23 A and push back the timetable for backbone  
24 infrastructure?

25 **MS. SATO:** The answer to that would be

1 yes. If we do not get the -- yes.

2 **COMMISSIONER OHIGASHI:** And so, the  
3 timelines that we are projecting at this point in  
4 time that you're asking us that we would keep are  
5 dependent upon whether or not you obtain Land Use  
6 Commission redesignation of those portions of land;  
7 is that right?

8 **MS. SATO:** Yes. That is correct.

9 **COMMISSIONER OHIGASHI:** How do we make  
10 sure, then, that we are proceeding in the fastest  
11 way possible but actually build houses on those  
12 portions that have already been designated areas  
13 where you can build?

14 As I see it, in that Phase A increment,  
15 there appears to be roads, and initial development  
16 can take place there, initial construction can take  
17 place there. And I'm just curious as to why that  
18 would not be proceeding irrespective of whether or  
19 not you attain land use re- designation in these  
20 areas.

21 **MS. SATO:** So, commissioner, I'm not the  
22 expert in this area. I don't sit with the  
23 development team on the master plan, which is why --

24 **COMMISSIONER OHIGASHI:** Is there anybody  
25 scheduled to testify that can answer that question?



1 **MS. SATO:** I don't know.

2 Jennifer?

3 **MS. LIM:** With the chair and Commissioner  
4 Ohigashi's permission, I can try to round out some  
5 of the, you know, some of the blank spaces that Dana  
6 is not able to respond to.

7 **COMMISSIONER OHIGASHI:** Yeah.

8 **CHAIR SCHEUER:** Commissioner?

9 **COMMISSIONER OHIGASHI:** The reason why I'm  
10 asking all of this is I look back on the last  
11 hearing that we had. I was reading over the  
12 transcript. The concern was, yeah, we want to help  
13 out, we want to get this solar project going,  
14 because we need it.

15 But at the same time, like Commissioner  
16 Wong's saying, hey, we want to get this housing,  
17 affordable housing, going. And the reluctance on my  
18 part -- I remember voting for it -- is that I wanted  
19 -- we were willing to get -- what we were expecting  
20 to get if the solar project's not online because of  
21 the time problems, but we were hoping that that  
22 doesn't affect the existing timetable for the  
23 development of housing.

24 So what I'm hearing is that Kamehameha  
25 Schools wants to have everything in place before it

1 even starts its initial development of it, whereas -  
2 - and it appeared to me, then, if that is the case,  
3 then what we should do is take -- maybe take a re-  
4 look at the entire project and put on hold certain  
5 aspects of everything and maybe take a look at  
6 restarting the entire project from the beginning,  
7 because it seems to me that we can't even have our  
8 cake and eat it, too, in this case, that there are  
9 potential development -- potential having --  
10 starting right away on housing programs as well as  
11 preserve certain areas for energy. And they already  
12 have that right to proceed.

13 So that's just my -- my comment or just my  
14 question about the -- and I look forward to further  
15 discussion.

16 **MS. SATO:** Commissioner Ohigashi, I  
17 appreciate you providing additional information and  
18 your narrative as to your position with regard to  
19 it. And I apologize, because some of this, like I  
20 said, it did have limitations as far as about the  
21 project. But what I have already seen and what I've  
22 already mentioned earlier in my testimony is that we  
23 are doing lots of stuff in the background.

24 We have been working with the state and  
25 the city agencies on easements and on, you know,

1 confirming that we have water resources for these  
2 projects. We are definitely working on the backbone  
3 infrastructure.

4 And so, we have a schedule in place. We're  
5 working on that. That's what's actually, I guess, as  
6 I mentioned earlier, that's what the marriage is  
7 with regard to this, is the fact that we're able to  
8 have layers of this property being utilized at the  
9 same time. And the utilization right now is that  
10 we're doing all of this.

11 All of the development work has already  
12 started. We've already begun those types of  
13 conversations. And we still have the EIS that we  
14 have to work on. We have the district boundary  
15 stuff, that zoning. We have and recognize what we  
16 need to do, and we are working on those.

17 And we have a solar developer who, if it  
18 weren't for SunEdison, which was the discussion  
19 early on, falling apart through their bankruptcy, we  
20 would have had a solar farm operation there as of  
21 today. But we don't.

22 And so what we had to do was scramble, and  
23 thankfully, we were able to find the two solar  
24 developers that we're working with right now, which  
25 is the Clearway project, which is the Phase II, and

1 then this Phase I project with our partners, the  
2 Waiawa Phase 2 Solar LLC company.

3           So they have a PPA in place. Things are  
4 moving about, so I would hope that you folks would  
5 hang in there. And just to further reiterate what  
6 Jennifer had mentioned with regard to Clearway,  
7 right now Clearway, they'll be online by the end of  
8 this year, which is awesome, given the fact with  
9 COVID and the supply/demand issues, they were able  
10 to get their -- you know, they're still being able  
11 to hang in tight for that.

12           And we have faith that this other  
13 developer will be able to do the same. And we are  
14 moving on that.

15           **CHAIR SCHEUER:** I'd like to move on to  
16 other commissioner questions, if that's okay.

17           **MS. SATO:** Yes. Sorry about that, chair.  
18 Thank you very much.

19           **CHAIR SCHEUER:** Commissioner Chang?

20           **COMMISSIONER CHANG:** Okay. Dana, thank you  
21 so much for being here. For me, this is really hard  
22 because, one, clearly, you come with a lot of good  
23 will -- good will, and you have good intensions. And  
24 Kamehameha Schools has a good mission, undoubtedly.

25           I think you can see the commissioners --

1 this is -- everybody's kind of struggling. And I  
2 won't speak on behalf of anyone else other than  
3 myself. But, you know, you come with a compelling  
4 story as well saying, you know, having these solar  
5 projects provides Kamehameha Schools the opportunity  
6 to, one, generate revenue, support renewable energy  
7 that will all assist you in the development of the  
8 master plan.

9 My quandary as the Land Use Commission is  
10 that there's competing interests -- renewable  
11 energy, use of ag land for, you know, sustainable  
12 ag, and then affordable housing. But I have to put  
13 aside a lot of just the good will and the good  
14 intentions. And I look at this original DBA -- 1988,  
15 over, I guess, almost 8,000 homes. And there were --  
16 and it was over the approximate 1,400 acres. And  
17 that was 34, 35 years ago.

18 You know, I would suspect that without all  
19 this good will, the Land Use Commission may have --  
20 may have issued an order to show cause why we should  
21 not revert the property. Because there's been no  
22 activity. There's been no homes. The solar project  
23 was not part of the original DBA, the plan  
24 development.

25 And I know that, you know, there was a

1 different developer, Gentry. But Kamehameha Schools  
2 was the landowner. Kamehameha Schools has an  
3 obligation to monitor their landowner and to ensure  
4 that those -- you know, that those representations  
5 are made, because they are made to a certain extent  
6 on behalf of the landowner. I mean, that's how we  
7 looked at this.

8           If you came to us in 2014 with this new  
9 project -- we're going to do a phase development;  
10 we're going to put two solar projects, but we're  
11 going to do a master plan -- I probably would not  
12 have been so troubled because in a reasonable,  
13 there's delays. But this is not the original  
14 project. And so it, you know there's a lot -- it  
15 troubles me.

16           And I'm hoping to hear from Office of  
17 Planning, too. When we've got these competing  
18 interests -- renewable energy -- and we have had  
19 numerous renewable energy projects using ag land, ag  
20 land that could be used for sustainable agriculture,  
21 I mean, we're shipping in 95 percent of our goods.

22           So anyways, so that is really sort of my  
23 dilemma here, is while I appreciate the master plan,  
24 and I have no doubt your team has been working very  
25 hard to fulfill a lot of the, you know, all the soft

1 -- you know, the issues behind the scene to get it  
2 ready.

3           We're not aware of half of those things.  
4 We've put some deadlines, and you've come before us  
5 and asked for another extension. But to date,  
6 there's nothing on this land. And so, I think about  
7 other developers where we have actually reverted for  
8 not -- for failure, substantial compliance with  
9 their representations.

10           In my view, this is -- what is being  
11 proposed is not what was represented to the Planning  
12 Commission.

13           It's a good project. I mean, there's no  
14 doubt supporting renewable energy. But, you know,  
15 Native Hawaiians probably have the highest rate of  
16 housing needs; right? And I just heard, through some  
17 line of questioning with Commissioner Ohigashi, to a  
18 certain extent, Kamehameha Schools is conditioning  
19 your master plan on getting approval of another DBA.

20           Well, that just makes me feel really  
21 anxious. And I'm very uncomfortable about that,  
22 because there's no guarantee that this particular  
23 DBA before us will be completed or even get started.  
24 So that very long story kind of setting my concerns  
25 about where we are today, you know.

1 And I do want to ask. There was testimony  
2 from the various labor unions about community  
3 support, including the neighborhood boards. However,  
4 I'm not sure if the right questions were asked. I  
5 think the questions were asked of these unions and  
6 neighborhood boards to support the solar farm.

7 If the question was asked: the original plan  
8 was to build 8,000 homes, 7,900 homes, and the  
9 community at large, what would you prefer? And I  
10 don't see any of that in your record. You know,  
11 everything is designed to presume that the solar  
12 farms are going to proceed, but there's nothing to  
13 support the original DBA, which was the housing.

14 So I have to put in context the community  
15 outreach, because I think the community outreach was  
16 designed to support the solar farms, not the larger  
17 question about the housing needs, which is, I think  
18 --

19 I would have liked to have seen what does  
20 the community say, including Kamehameha Schools  
21 alumni, including people of the Native Hawaiian  
22 community, if we had to choose -- because you're  
23 putting on that, you know, Kamehameha Schools has a  
24 very vast kuleana, and I know you are not -- you  
25 cannot resolve all the problems of the Hawaiian



1 community, but I think we should ask them.

2           There should be some community engagement,  
3 and I did not see that in any of the documentation  
4 to date. So I know I'm making more of a statement  
5 than I am asking questions. So, you know, and I'm  
6 going to ask you to speculate, but if we did not  
7 have these solar projects, if Kamehameha Schools did  
8 not have these two solar projects before you, would  
9 Kamehameha Schools have accelerated the master plan  
10 to build housing?

11           You're on mute. You're on mute, Dana.

12           **MS. SATO:** Thank you, commissioner.

13 Although there was only one question asked at the  
14 very end, I truly appreciated the narrative and the  
15 background and you sharing your thoughts about the  
16 challenges of this project. I appreciate that. In  
17 fact, I appreciate that in each one of the  
18 commissioners who have shared that.

19           So let me start from there, actually, from  
20 the narrative. 1988 and before that, Kamehameha  
21 Schools was a really different entity. The thought  
22 process that was happening then was certainly a lot  
23 different than how we think today with regard to the  
24 management of our trust and with regard to  
25 management of our land.

1 And we saw that when our own community,  
2 our own Native Hawaiian community, our own KS alumni  
3 addressed the issue in a public fashion in order to  
4 say things are not operating correctly. And what you  
5 see in 2014 is the evolution of KS from what we were  
6 just before 2000 and where we have gained momentum  
7 heading in the right direction with our strategic  
8 planning, with our change of focus.

9 And so, I wasn't here, and as you've  
10 indicated, I can apologize for what was done, but I  
11 don't really know what all that was about. And so, I  
12 appreciate you pointed that out.

13 This project is -- as we've said in our  
14 presentation in 2020, this project is looking at  
15 approximately 11,000 homes, which is far more than  
16 what was brought forth during the Gentry time back  
17 in '88.

18 And, yeah, I guess I see -- from what I  
19 see, I guess, commissioner, is that we -- KS has  
20 gone through its changes and has refocused itself  
21 away from what we were before the year 2000, that we  
22 have been gaining momentum and momentum to gain  
23 what's right with these development projects. And so  
24 what you see before you are projects that we are  
25 actually being able to move forward on and push

1 forward in a timely manner.

2           The use of the ag lands that you mentioned  
3 -- truly understand that. Sustainable ag is actually  
4 -- and the sustainable food system is actually a new  
5 department. We actually have a new department called  
6 Sustainable Development, which is focused -- right  
7 now one of our chief goals is to focus on food  
8 systems. So preserving ag lands is very important  
9 for us because we are planners for the future.

10           The use of ag lands for renewable energy  
11 is for a very set period of time, and it's not  
12 intended for it to be a long-term, almost like a  
13 perpetual ground lease or perpetual easement, but is  
14 intended to allow for income to come in and then  
15 allow for it to now be re-evaluated at the end of  
16 that period of time. What can we do with those  
17 lands?

18           With this district boundary, in the larger  
19 master plan with this, what we have is -- and we did  
20 mention it in our 2020 presentation -- that we are  
21 going to be looking at a district boundary amendment  
22 for our ag lands in order for us to then address the  
23 housing issue.

24           So we find ourselves sort of challenged.  
25 This property allows -- shows us everything. It

1 exposes everything to us. And we're trying to do  
2 what Gentry started up, but in a better way, being  
3 able to generate better housing. We're creating a  
4 means for us to be able to generate income to allow  
5 us to continue to do the work that we do and be able  
6 to move this project forward.

7           So your end question, commissioner, was if  
8 we weren't doing this solar project, could we  
9 accelerate things? And the answer to that is it's  
10 probably no, you know.

11           And our solar lands -- solar is very clear  
12 to us, that our solar lands that we have for this  
13 specific project is not on ag lands. Our solar lands  
14 are -- actually have been already recategorized as  
15 urban lands, so.

16           But I appreciate your comments,  
17 commissioner. I understand them.

18           **COMMISSIONER CHANG:** And thank you for the  
19 responses.

20           Dana, you know solar projects have come  
21 before us, and there's been a specific length of --  
22 for the term of their use. Because as you said, this  
23 is supposed to be an interim temporary use, at the  
24 end of the lease or the end of the term.

25           However, several of the solar farms have

1 indicated to us that they do include on their leases  
2 an extension. They can extend, depending on if the  
3 life of the solar with new technologies, if they're  
4 still viable, they have the opportunity -- they have  
5 an option to extend for another 10 years.

6 Now, your decommissioning plan and the  
7 rest of, you know, the phases is dependent upon them  
8 decommissioning at a particular time period. Can you  
9 confirm that the solar project, that the solar  
10 contracts that you have right now, does not include  
11 a provision for an extension beyond the term of the  
12 -- beyond the existing term?

13 **MS. SATO:** So, commissioner, let me just  
14 double-check on that, because I believe the answer  
15 is -- oh, the suggestion from my team is to defer  
16 that to the representative Nick Molinari. He will  
17 respond to that question directly for you.

18 **COMMISSIONER CHANG:** All right. Okay.

19 Ms. Lim, I'm going to expect you to -- in  
20 the event I forget, you're going to remember; right?

21 **MS. LIM:** I will do so. Thank you.

22 **COMMISSIONER CHANG:** I would like that  
23 question answered.

24 **MS. LIM:** Of course.

25 **MS. SATO:** Commissioner, could I just hop

1 in?

2 **COMMISSIONER CHANG:** Oh, yeah.

3 **MS. SATO:** You did have another -- you did  
4 have another point that I failed to address, and  
5 it's the point you made on the community engagement  
6 as to those who have provided written and oral  
7 testimony, that they were focused on the solar  
8 farms. And you're correct.

9 So prior to -- in 2020 before COVID hit  
10 and in 2019, and I think it was reflected also in  
11 the presentation that was done by Mr. Thoemmes in  
12 January of 2020, we were actively involved in  
13 community engagement on the master plan level.

14 So at that time, we met with cultural  
15 practitioners, we met with the community, Native  
16 Hawaiian community groups, individuals, KS alumni,  
17 the community education areas such as Leeward  
18 Community College, UH West O'ahu, state and city  
19 agencies, as well as legislators, to discuss the  
20 master plan before we brought it in for --

21 And then COVID hit, to which then that  
22 level of community engagement came basically to a  
23 stop. And it is what we are now, with things opening  
24 up, that is what our team is working on, is to begin  
25 to expand on that community engagement and to open

1 up that discussion again with regard to the master  
2 plan. So I did at least want to respond to that.

3 **COMMISSIONER CHANG:** And I appreciate  
4 that. I do. I think it is really important to  
5 disclose, when the representation we've got is  
6 support from the neighborhood boards and the various  
7 unions, the question that's being asked in the  
8 context.

9 Because I do wonder would the answer --  
10 would the support be different if they had an  
11 option. Do we support additional housing at an  
12 accelerated rate, or do we support the solar  
13 projects that will occupy the land for 34, 35 years?  
14 And I think that's a really different question  
15 that's being asked.

16 And the answer, you know, it's been  
17 broadly described as there's support. And I'm sure  
18 there is support. But I do want the support to be in  
19 the context of the question that's being asked.

20 I guess the only other question -- and I  
21 do appreciate your, you know, putting everything in  
22 the context of the changing times. But Kamehameha  
23 Schools has got the luxury of having this  
24 entitlement and truly being able to sit on it for 34  
25 years. As you personally -- as the school became

1 more pono, as you became more --

2 And, you know, that is that not very many  
3 landowners who come before us have that luxury. And  
4 so that's the quandary that I have, is that, you  
5 know, do we treat Kamehameha Schools differently  
6 than how we would other, you know, people? Because  
7 we've had many, many applicants, petitioners for  
8 DBAs who are, like, the third, the fourth owners,  
9 because the original owner couldn't develop it.

10 But you are situated -- you are uniquely  
11 situated, but you also have the opportunity to do  
12 good work. So let me just finally look at making  
13 sure that I answered all my questions -- you  
14 answered all my questions. Okay. I think, yes, thank  
15 you very much. And I appreciate you just letting me  
16 kind of wala'au for a long time. Mahalo.

17 **CHAIR SCHEUER:** Thank you, commissioner.

18 Commissioner Giovanni?

19 **COMMISSIONER GIOVANNI:** Thank you, chair.

20 I wanted to -- actually, Commissioner Chang started  
21 down a path that I had a couple of questions, and I  
22 know that it's probably a different witness for the  
23 petitioner that will answer these.

24 But the message that I heard from Ms. Sato  
25 is that in general we've got this interim of solar



1 farms for 20 years or so, and then we're going to  
2 proceed, even with those lands that will be restored  
3 to their original condition, with the building of  
4 homes.

5 Is that correct, that basically you view  
6 this as an interim use? Once the projects are  
7 terminated, then you're going to build houses on  
8 these lands as well?

9 **MS. SATO:** Commissioner Giovanni, that's  
10 specifically what it's about. That's why our time  
11 was the way that we have set the timing, was that it  
12 matches with the Phases C, D, and E.

13 **COMMISSIONER GIOVANNI:** So my expectation  
14 is that we will hear from the developers of these --  
15 basically, the lessees for these lands, the  
16 developers of the solar projects, that they have a  
17 purchase power agreement that is nominally 20 years;  
18 however, they would hope to extend those power  
19 purchase agreements with Hawaiian Electric for  
20 another 10 to maybe even 20 years more.

21 Having said that, would it be the position  
22 of the landowner that they would terminate the  
23 leases irrespective of the wishes of the developers  
24 so that they could resume the master plan and  
25 actually build homes on these lands?

1 Specifically, would there be interest or a  
2 position by Kamehameha Schools that at some point  
3 tied to the original power purchase agreement term  
4 for these solar farms, that they would require the  
5 restoration of the property, the termination of the  
6 lease, so that Kamehameha Schools could actually  
7 build homes on these lands?

8 **MS. SATO:** The decommissioning time  
9 schedule is intended to do exactly that,  
10 Commissioner Giovanni, which is that once the -- the  
11 decommissioning then removes the structures above  
12 the ground and below the ground so that it returns  
13 it to where it was the way it was before, with the  
14 intention that then our Phase C and then our Phases  
15 D and E for this master plan would be able to  
16 proceed.

17 **COMMISSIONER GIOVANNI:** Yeah, my  
18 question's a little different. So right now that  
19 would occur at the termination of the power purchase  
20 agreement of the solar farm -- nominally, 20 to 25  
21 years from now.

22 My question is would Kamehameha Schools,  
23 the landowner, take the position (a) or (b), (a)  
24 being we are not going to extend the lease any  
25 further and irrespective of the developer's wishes

1 so that we can build homes, or (b) we'd be happy to  
2 extend the lease further and keep the solar farm  
3 going for another 10 or 20 years -- (a) or (b)?

4 **MS. SATO:** So we are planning to extend  
5 the -- I mean, we don't have it to extend the lease  
6 agreement with the solar farms. We've set the  
7 termination dates for December 31st, 2044, for  
8 Parcel A and then December 31st, 2054, for Parcel B.

9 **COMMISSIONER GIOVANNI:** And there's no  
10 intent to extend beyond that?

11 **MS. SATO:** I think that was where I had  
12 suggested that I would pass that question off to Mr.  
13 Molinari, but the messages that I'm getting from my  
14 team now is that there is no intent of us to.

15 So that would also answer your question,  
16 Commissioner Chang, of us extending it beyond  
17 December 31st, 2054, for Parcel B.

18 **COMMISSIONER GIOVANNI:** So the first solar  
19 farm for which you have a permit actually has a  
20 provision in the decision and order from the  
21 commission -- Land Use Commission -- that basically  
22 says it would expire November 26, 2049. However, it  
23 could be extended to December 31st, 2059 -- that's  
24 an additional 10 years -- if the solar farm received  
25 a PUC approval for extension.

1 So are you saying here today that you  
2 would not seek to extend it, and the 2049 date would  
3 be for that first farm -- solar farm would be in  
4 fact a rigid date so that Kamehameha Schools could  
5 restore the property and get it back to housing  
6 development at that time?

7 **MS. SATO:** So the two solar phase sites  
8 are quite different from each other, commissioner.

9 **COMMISSIONER GIOVANNI:** Yeah.

10 **MS. SATO:** So the Phase II site is --  
11 Oh, excuse me. Sure, that would be fine,  
12 Jennifer.

13 So the Clearway site that was approved  
14 with the ability for extension is not within the  
15 actual master plan area. It is actually within an  
16 area called the zone of contribution. So there's  
17 restrictions already limited to that, so that's why  
18 that's handled differently and allow for an  
19 extension possibility there.

20 But for our Phase I solar site, which is  
21 what we're discussing today, that is directly part  
22 of our larger Waiawa master plan, and so we are not  
23 flexible with the timeframe for that.

24 **COMMISSIONER GIOVANNI:** Thank you for  
25 that. I finally understand where you're coming from.

1 So let me reiterate for the record my  
2 understanding now. First, the Clearway farm may in  
3 fact be successful in getting a nominal extension  
4 which would automatically extend the term of the  
5 lease and the permit from the Land Use Commission.

6 However, the one -- the solar farm for  
7 which you are seeking approval today, it would be  
8 for the original term of the PPA, and Kamehameha  
9 Schools, the landowner, would not agree to an  
10 extension of that lease for extending the term of  
11 the solar farm so that you could return to the  
12 original concept of building homes in that area; is  
13 that correct?

14 **MS. SATO:** Almost correct. Let me just  
15 clarify one thing, commissioner.

16 So the PPA right now goes out to 2044.  
17 What we're -- it might be 2043, which will then give  
18 us a 12-month period for the decommissioning of the  
19 Parcel A.

20 What the developer is going in for is to  
21 seek an extension of the PPA to take it out to 2054  
22 for the Parcel B area, which is why it's separated.  
23 And then Parcel B is where it comes into Phase D and  
24 E, which would then at 2054, when they exit -- if  
25 they are successful in getting the extension and

1 they exit, then they would -- that would allow for  
2 then the construction for Phase D and E to happen.  
3 So the timing would be like that.

4 So it's not that the entire project --  
5 that's why we separated it by a Parcel A and a  
6 Parcel B. Does that help, or does that confuse you  
7 further?

8 **COMMISSIONER GIOVANNI:** I think you  
9 answered my question, but can I ask you to repeat it  
10 one more time, just so I make sure we all understand  
11 it? And just confine your remarks exclusively to the  
12 proposed solar farm that's before us today, not the  
13 one that was approved a year or two ago.

14 **MS. SATO:** So the proposed solar farm that  
15 we're looking at today and which is on the screen is  
16 broken into two parcels. There is a Parcel A and a  
17 Parcel B. So Parcel A will have a decommission date  
18 of December 31st, 2044. Parcel B will have a  
19 decommission date of December 31st, 2054.

20 Could I just hold on just for a second?  
21 Okay.

22 So the intention is that the Parcel A  
23 would be decommissioned by December 31st, 2044. They  
24 would continue -- the operation would continue on  
25 Parcel B. They'd have to go into HECO to get a new

1 PPA approved, agreed to and approved.

2 It may call for certain adjustments being  
3 made as far as the substation and et cetera, but the  
4 intent is to continue with the Parcel B out to  
5 December 31st, 2054. When they exit at the time of  
6 decommissioning, it would be the perfect timing for  
7 Phase D and E to begin their infrastructure work.

8 **COMMISSIONER GIOVANNI:** So thank you. That  
9 did help. So for Parcel B, there is a possibility of  
10 a 10-year extension; is that correct?

11 **MS. SATO:** It's -- so the -- it's -- it's  
12 --

13 **MS. LIM:** I'm sorry to interrupt, chair.  
14 May I just --

15 **CHAIR SCHEUER:** Ms. Lim?

16 **MS. LIM:** There is a condition. This might  
17 make it all very, very clear for Commissioner  
18 Giovanni and everybody else. There was a condition  
19 that we had put into our motion, and that in fact is  
20 part of our stipulation with Office of Planning.  
21 Maybe Ms. Sato could read that language, and  
22 hopefully, that will alleviate any lingering  
23 confusion. Ms. Sato has the language in front of  
24 her, the interim use for Parcel A.

25 **COMMISSIONER GIOVANNI:** Am I supposed to

1 be reading this? Because it's not clear on my  
2 screen.

3 **CHAIR SCHEUER:** I am --

4 **MS. SATO:** I'm sorry. I was on mute. Thank  
5 you for speaking up. I apologize. I was on mute.

6 So it's condition 8 in Exhibit 4, the  
7 stipulated proposal. "Interim use of Parcel A for  
8 the proposed solar farm, including any and all  
9 permitting, construction, operation,  
10 decommissioning, shall not exceed December 31st,  
11 2044, without prior written approval of the  
12 commission. The interim use of Parcel B for the  
13 proposed solar farm, including any and all  
14 permitting, construction, operation, and  
15 decommissioning activities associated with the solar  
16 farm, shall not exceed December 31st, 2054, without  
17 the prior written approval of the commission,  
18 provided, however, that in the event the solar farm  
19 project fails to secure a PUC-approved extension for  
20 the PPA or a new PPA within 12 months after the  
21 expiration of the current PPA, the project owner  
22 will immediately commence with the decommissioning  
23 of the solar farm in Parcel B and complete  
24 decommissioning within two years after the  
25 expiration of the current PPA."



1 My apologies, Commissioner Giovanni, that  
2 I couldn't adequately answer it more directly as the  
3 condition.

4 **COMMISSIONER GIOVANNI:** That's a very  
5 direct answer, and I appreciate it. And I do  
6 understand the proposed condition. What's confusing  
7 to me is that it implies that the developer may seek  
8 a 10-year extension to his PPA for Parcel B. Is that  
9 correct?

10 **MS. SATO:** That is correct, commissioner.

11 **COMMISSIONER GIOVANNI:** So, first of all,  
12 it's very unusual, and I presume it would be -- and  
13 you can confirm it in your --

14 **CHAIR SCHEUER:** Can we stop screensharing,  
15 please?

16 **COMMISSIONER GIOVANNI:** Yeah.

17 I doubt that the PPA provides for a  
18 bilateral negotiation of an extension of any kind,  
19 because the form of those PPAs do not. So what it  
20 typically means is that the developer or the  
21 independent power producer will have to seek an  
22 extension through a competitive process, which are  
23 nominally requiring proposals for solar farms for  
24 nominally 20 years.

25 So I don't know how you can -- where this

1 10-year came from. Because it's generally regarded  
2 to be either a new farm or a replacement farm, solar  
3 farm, for 20 years, because it's never been done for  
4 10 years.

5 So my question is it Kamehameha Schools  
6 that is limiting it to a potential 10-year extension  
7 because it wants to resume construction of its  
8 master plan and put housing there, or is it -- where  
9 is this nominal 10 years coming from?

10 **MS. SATO:** The 10-year period is coming  
11 based upon the timing of our master plan. So it's  
12 the completion of our Phase C, and the timing and  
13 the schedule that we currently reflect is that we'll  
14 complete the Phase C. The timing will be such that  
15 the decommissioning of the Parcel B will take place,  
16 too, as they can then begin the process for the  
17 Phase D and E.

18 **COMMISSIONER GIOVANNI:** That's what I  
19 hoped you would say. So basically, Kamehameha  
20 Schools is taking the position that under no  
21 circumstance would the Parcel B be extended beyond  
22 2054 for a solar farm.

23 **MS. SATO:** Yes.

24 **COMMISSIONER GIOVANNI:** Thank you. No  
25 further questions.

1           **CHAIR SCHEUER:** Okay. It is 1:05. We're  
2 going to be able to go to 3 today. I think the  
3 commissioners might need a brief break. I'd like to  
4 -- it's 1:06 now. We're going to take a five-minute  
5 recess, reconvene exactly at 1:11. And at that time,  
6 Commissioner Chang has questions.

7           **(Recess taken from 1:06 - 1:12 p.m.)**

8           **CHAIR SCHEUER:** Okay. We need Commissioner  
9 Cabral. This is one of the dangers of a short break.  
10 Commissioner Wong?

11           **COMMISSIONER WONG:** Is it possible for me  
12 to go after Commissioner Chang if she doesn't answer  
13 my -- I get my questions answered?

14           **CHAIR SCHEUER:** You may.

15           **COMMISSIONER WONG:** Thank you.

16           **CHAIR SCHEUER:** Okay. Back on the record.  
17 Commissioner Chang, followed by Commissioner Wong.

18           **CHAIR CHANG:** Okay. Ms. Sato, I just have  
19 a follow-up question referring to the stipulated  
20 condition 8, timeframe for interim use.

21           I was really comfortable until I read  
22 "without the prior written approval of the  
23 commission". So there seems to be an open door that  
24 you may seek an extension. Because I'm just  
25 wondering from a planning perspective, don't -- if

1 you're going to plan housing, don't you have to have  
2 a hard stop?

3 The representation to the communities is  
4 that this is going to happen on this phase, but that  
5 "without prior written approval of the commission",  
6 it does seem to provide you -- or it seems to -- it  
7 implies, in my mind, an intention that you want to  
8 keep that door open to ask for an extension.

9 **MS. SATO:** Yeah. I see what you're saying,  
10 commissioner, with regard to that language. Because  
11 it does run somewhat contrary to what we were  
12 discussing earlier, so.

13 **COMMISSIONER CHANG:** And I suspect your  
14 lawyer probably put it in there.

15 **MS. SATO:** Yeah. You know us lawyers.

16 **COMMISSIONER CHANG:** Okay. So that's my  
17 only question. I mean, I think you get what my  
18 concern is with that language.

19 **MS. SATO:** Yeah.

20 **COMMISSIONER CHANG:** I have nothing else  
21 to ask. Thank you.

22 **MS. SATO:** Thank you, commissioner.

23 **CHAIR SCHEUER:** Can you stop sharing  
24 again, Ms. Thoene? To the degree possible. It's  
25 already hard enough to see each other in virtual

1 world, so.

2 Thank you, Commissioner Chang.

3 Commissioner Wong?

4 **COMMISSIONER WONG:** Thank you, chair. I  
5 didn't know you wanted to see me in person. Thank  
6 you for that confirmation.

7 But anyway, okay. So, you know, I will  
8 tell you the truth. All this questioning with  
9 Commissioner Giovanni, Commissioner Cabral, and  
10 Commissioner Chang, I am confused. I'm totally lost  
11 right now.

12 So the first thing -- the first question I  
13 have is is there some sort of timeline? I mean, in  
14 the sense of not only the solar panels that we're  
15 talking about, but a master plan and all this  
16 acreage and parcels. Is there some sort of, like,  
17 concurrent timelines or something that shows what's  
18 going what, what's going next, what's going where?  
19 Is there something in this plan that I couldn't  
20 find, or am I lost?

21 **MS. SATO:** I wouldn't describe it as being  
22 lost. I think it's just -- it might be just the  
23 opposite, is an overindulgence of too much  
24 information on the other side of that, commissioner.

25 So when we did our presentation back in

1 January of 2020, and before that, in October of  
2 2019, we did an updated master plan along with a  
3 schedule, so. And so we're proceeding as best we can  
4 with that schedule. And that's already in the LUC's  
5 records.

6 **COMMISSIONER WONG:** Okay. So the question  
7 I have is several things. So the old master plan  
8 would -- I would say the old one with Gentry is no  
9 good; right? That was with 8,000 houses,  
10 approximately.

11 So we're now with -- and a golf course and  
12 all that stuff that you talked about. But now we're  
13 with 11,000 houses; correct? Approximately.

14 **MS. SATO:** Yes. That was the latest  
15 submission that we have.

16 **COMMISSIONER WONG:** And as we were talking  
17 about, there's different parcels -- A, B, C, D, E --  
18 parcels that, you know, when -- they're in the  
19 bottom, the south end, close to the transit center.  
20 And we're going upwards towards Wahiawa side; is  
21 that correct?

22 **MS. SATO:** We're going upwards, yes,  
23 northwestern, yes.

24 **COMMISSIONER WONG:** Approximately Wahiawa  
25 side, but --

1 **MS. SATO:** Yes.

2 **COMMISSIONER WONG:** I'm looking at the  
3 whole thing. Was there any development ground, you  
4 know, movement of the earth or anything done on the  
5 ground for this development of that land, the Parcel  
6 A? Was anything started yet?

7 **MS. SATO:** So part of -- I guess, also,  
8 we're working on a draft EIS, which is going to  
9 provide a schedule, and we'll be able to address  
10 more of the specifics, I think, that you're looking  
11 for.

12 Have we actually broke ground -- no, we  
13 have not actually put a shovel into the ground as of  
14 yet, but we are doing --

15 As we know, there's so much things that  
16 you have to do before you can build a house; right?  
17 So there's lots of things that we are working on,  
18 which are things that I've discussed earlier in my  
19 testimony today.

20 **COMMISSIONER WONG:** So I guess -- again, I  
21 got to go back. I'm more of a -- I'm thinking in  
22 terms of a timeline. So we have the housing  
23 timeline, which is, like, one side. And you have the  
24 solar, which is here, you know, a little bit on the  
25 bottom. But, I mean, that's going to start earlier

1 than the housing; correct? Is that how it's going to  
2 be done? Or is it going to be concurrent?

3 **MS. SATO:** So the Phase A work is already  
4 happening. Already. It's in the way the -- so and  
5 that's -- that's the southern -- that's the bottom  
6 part of the property. And then where we're looking  
7 at for Phase C, D, and E is way up here. So the  
8 timing of it is to come up from Phase A, Phase B,  
9 Phase, C, D, and E.

10 So the solar operation, the farm  
11 operation, will be going into C, D, and E. The work  
12 has already begun to work on putting the backbone  
13 infrastructure. Working with the state and city  
14 officials and et cetera for Phase A has already  
15 begun.

16 **COMMISSIONER CHANG:** Okay. So the solar --  
17 I'm trying to think about where the solar is going  
18 to start also at the same time as Phase A. Is that  
19 correct, then?

20 **MS. SATO:** The solar is actually -- right  
21 now, the solar is intended to be at commercial  
22 operation before the end of next calendar year in  
23 2023.

24 **COMMISSIONER CHANG:** Okay. So we have  
25 three different phases of the solar; right? You



1 talked about three different phases, it seemed like.

2 So which phase are we talking about?

3 **MS. SATO:** Yeah. I think where the  
4 confusion might be, commissioner, is the fact that  
5 maybe I'm confusing the situation by using the word  
6 "phases" and "parcels".

7 So the phases are referring to the master  
8 plan phases of construction for the larger master  
9 plan. The overlay is that this solar project is  
10 overlaid on Phases C, D, and E of the master plan.

11 So A and B will be coming in first. Then  
12 they'll move over to C, which is when the  
13 decommissioning will happen in, like, 2044.

14 And then KS will move into their next  
15 phases for D and E for their master plan project.  
16 And by then, the decommissioning will have already  
17 occurred for the second part of the solar project.

18 **COMMISSIONER WONG:** Okay. So those solar  
19 projects, as you said, going to start next year,  
20 should be operational by next year.

21 **MS. SATO:** That's what we're -- that's  
22 what we're definitely shooting.

23 **COMMISSIONER WONG:** Okay. So then going  
24 back to that bottom Phase A of the housing that  
25 we're starting to work on.

1 **MS. SATO:** Yes.

2 **COMMISSIONER WONG:** I guess I'm just --  
3 I'm going back to my first question about the water.  
4 Do we have anything on record by BWS to say there's  
5 a water agreement or allocation or there's anything,  
6 or is it being in process?

7 **MS. SATO:** My understanding from the  
8 development team is that our water resources have  
9 been confirmed and that the four wells -- that we  
10 have four wells that have been also confirmed by  
11 CWRM.

12 **COMMISSIONER WONG:** Okay. But it's not in  
13 -- we don't have anything on the record yet, because  
14 you're going to put that in when you do a DBA or  
15 something; right?

16 **MS. SATO:** Yeah. That's going to be part  
17 of the motion to amend.

18 **COMMISSIONER WONG:** Okay. So the next part  
19 is the timeline. So now you're saying that by 2030,  
20 there's going to be the infrastructure for the  
21 sewer, and roads will be done for Phase A; is that  
22 correct?

23 **MS. SATO:** Yes. So for Phase A, there's  
24 the infrastructure that we need to have, the  
25 backbone infrastructure that we need to have in

1 place for that. And there was a list of it. It  
2 included the sewer and access and some other things  
3 as well.

4 **COMMISSIONER WONG:** Okay. I have a  
5 question for you on that. You know for the -- I  
6 thought at one point we were talking about -- I  
7 don't know, 2019 or whenever I was here -- we were  
8 talking about a sewer line and roadway access on the  
9 top portion where the solar panels was as well. Did  
10 we already talk about that in one of the  
11 presentations? You never did?

12 **MS. SATO:** We never did. Yeah. Because,  
13 yeah, it was far more difficult for us to come in  
14 from there, which is why we're starting from the  
15 south coming up.

16 **COMMISSIONER WONG:** Okay. So we never  
17 talked about anything about doing a line there to  
18 other projects or anything. There was a co-  
19 development agreement or anything? Nothing?

20 **MS. SATO:** Yeah. Not -- not -- yeah, the -  
21 - no, definitely not with our -- with our master  
22 plan. Definitely not.

23 **COMMISSIONER WONG:** Okay. So the other  
24 thing about the master plan is it's very -- to me  
25 it's conceptual. So we don't have any true numbers,

1 then, at this point in time, in terms of costs or  
2 anything like that, like this is how much it's going  
3 to cost or this is the developer or at least this is  
4 a record of something that says all those things?

5 **MS. SATO:** We don't have that information  
6 now, but that will be part of the EIS.

7 **COMMISSIONER WONG:** And we're looking for  
8 those numbers -- I mean, we'll --

9 **MS. SATO:** And we're looking at -- we're  
10 looking at the EIS happening, obviously, definitely  
11 before the -- within the next three to four years,  
12 the EIS will be occurring.

13 **COMMISSIONER WONG:** Okay. Let me see what  
14 else I was going to ask. Oh, also, you know I was  
15 looking at this master plan or this -- it's this  
16 book. This is the stuff that it's in. How come your  
17 Phase B and Phase C has TOD when it's not even in a  
18 TOD district?

19 **MS. SATO:** I'm not sure. Do you have a  
20 reference to -- do you have a reference to an  
21 exhibit?

22 **COMMISSIONER WONG:** It's Exhibit -- sorry,  
23 I got to put on my glasses. Just a minute. Yeah,  
24 Exhibit 37. It says Phase A TOD increment and then  
25 Phase B TOD increment. And when -- it appears that

1 Phase A barely touches the TOD area. Can you explain  
2 why B was in the TOD increment?

3 **MS. SATO:** I'm sorry, commissioner. I'm  
4 not able to provide that answer. I'm really not  
5 familiar enough with that level of specificity.

6 **COMMISSIONER WONG:** Okay. So I guess going  
7 back to, you know, when Gentry's plan was approved  
8 to develop across Ka Uka -- you know, I work around  
9 that area, so across the gulch -- I thought there  
10 was an intent to share the costs of the  
11 infrastructure with Castle & Cooke. So that's no  
12 longer on the table, then.

13 **MS. SATO:** That is, I guess, from the  
14 studies and the work that our development team has  
15 done, that we actually did that coming from the  
16 south was the best way to work on this master plan.

17 **CHAIR SCHEUER:** One moment.

18 Mr. Yee?

19 **MR. YEE:** If you don't mind, could I offer  
20 a comment to resolve Commissioner Wong's question?

21 **COMMISSIONER WONG:** Please.

22 **CHAIR SCHEUER:** Go ahead.

23 **MR. YEE:** I think he is correct. Koa Ridge  
24 project had an incremental approval aspect to it.  
25 And the additional increment was contingent upon

1 working with the original developer for this larger  
2 project, so they were going to share certain  
3 infrastructure costs between them.

4 But the incremental approval for Koa Ridge  
5 had to -- that work had to be done by a particular  
6 time period. That time period has expired, so that  
7 incremental approval is also terminated.

8 So there was an original plan to do so.  
9 The plan did not move forward, and all of those  
10 provisions really are not applicable to any of the  
11 current projects that are before you.

12 **CHAIR SCHEUER:** I'm sure we will want to  
13 ask you more about this later, Mr. Yee, but we're  
14 going to focus -- go back to focusing on this  
15 witness.

16 Mr. Wong -- Commissioner Wong?

17 **COMMISSIONER WONG:** Thank you.

18 So the last question I have is, you know,  
19 I'm so happy that Kamehameha is planning this Phase  
20 A, B, C, going up to the north, Wahiawa side. I just  
21 wanted to say that, you know, that affordable  
22 housing right now, hopefully, will still stay  
23 affordable, not like it won't cost million-  
24 something bucks like right now Koa Ridge is, and it  
25 will be a little bit less for working people.

1 So I just want to state that on the  
2 record. There are no questions about that. I just  
3 wanted to state that.

4 Thank you, chair.

5 Thank you, Ms. Sato.

6 **MS. SATO:** Chair, if I could answer -- if  
7 I could answer one of the questions that  
8 Commissioner Wong asked.

9 **CHAIR SCHEUER:** Okay.

10 **MS. SATO:** Because I've been provided  
11 additional information.

12 So, Commissioner Wong, with regard to the  
13 TOD zoning, it does -- Phase A is technically within  
14 it, not Phase B. Oh, I'm sorry. Neither Phase A nor  
15 Phase B are technically within the city's TOD zone.

16 **COMMISSIONER WONG:** So it's just a  
17 misstatement, then, just a typo on the exhibit; is  
18 that correct? When it says TOD increment? Or is it -  
19 - am I reading it -- it means something else instead  
20 of TOD increment.

21 **CHAIR SCHEUER:** Ms. Thoene, would you put  
22 up the exhibit which is being referred to?

23 What's the number, Commissioner Wong?

24 **COMMISSIONER WONG:** Exhibit 37. So if you  
25 look on, yeah, under that Phase A, it says TOD

1 increment. Does it mean something else besides  
2 transit-oriented development?

3 **MS. SATO:** No. What it means, when you  
4 look at the exhibit, is the fact that that southern  
5 part is close to limited transit points, right,  
6 where the train system runs and et cetera, so.

7 **COMMISSIONER WONG:** Okay. So that's close  
8 to the choo-choo train, then.

9 **MS. SATO:** Yeah. Yeah.

10 **COMMISSIONER WONG:** Okay. Thank you,  
11 chair.

12 **MS. SATO:** Thank you, commissioner.

13 **CHAIR SCHEUER:** Okay. Commissioners,  
14 further questions for the witness?

15 The chair has questions. Sorry, I don't  
16 want to -- I want to make sure. Any --  
17 commissioners, anything else right now for the  
18 witness?

19 Okay. So I want to sort of just -- this is  
20 more of an aside than anything. If I saw the witness  
21 on the street or at a function, I would call her  
22 Dana, as some of my other commissioners have. But I  
23 will refer to the witness as Ms. Sato.

24 The reason for that is that in a recent  
25 docket, when one of our commissioners referred to a



1 witness by first name, this set off one of the  
2 counsel who appeared and suggesting that there was  
3 perhaps some kind of backroom communications or ex-  
4 parte communications that occurred.

5           And then, just interestingly,  
6 additionally, I had a member of the public comment  
7 to me after one of our hearings that said that,  
8 like, when it feels chummy between the commissioners  
9 and people who appear in front of them with their  
10 previous relationships, it's a little bit off-  
11 putting, like there's this inside club and outside  
12 club.

13           So I'm just going to refer to you, address  
14 you as Ms. Sato. And I really want to build on the  
15 comments of my fellow commissioners. And this really  
16 -- it's going to be akin to, I believe, nearly all  
17 of the questions and comments from the  
18 commissioners, that these are more comments that I'm  
19 asking you to respond to rather than necessarily  
20 direct questions.

21           And I'm going to start off by something  
22 that happened before we went to lunch, where the  
23 witness stated in what I would characterize as a  
24 frustrated tone, you know, not understanding why the  
25 commissioners are trying to tie Kamehameha Schools'

1 hands on such a big project. And I'm going to try  
2 and answer that, essentially, in this set of  
3 statements.

4 First is -- and the comment was really on  
5 a good solar project. First response is what  
6 Kamehameha Schools has come before us, at least in  
7 their initial proposal, was not just approval solely  
8 related to the solar project. It was also a waiver  
9 of a number of conditions, including the condition  
10 related to a master plan. So it's not just solar  
11 that's being laid in front of us.

12 Another thing, and this is just -- I have  
13 spent time with this docket and read the materials.  
14 I am still having a hard time distinguishing between  
15 phases and letters and numbers, and it has not been  
16 presented to me, at least, in a way in which I  
17 clearly understand with all the different layers of  
18 approvals that have happened so far, what exactly is  
19 being asked of us.

20 But beyond that, I think the witness' --  
21 your statement on, you know, why are you trying to  
22 tie our hands, it really does beg the question.  
23 It's, like, why is this so hard? Because, like, of  
24 all the projects in front of us, that come in front  
25 of us, this should be one of the ones that is easy.

1 We have a Hawai'i-based landowner with a  
2 nonprofit and noble mission; right? We're trying to  
3 do solar, and it's temporary. It's not a permanent  
4 change to the land, you know, and it's responding --  
5 at least it's trying to respond to the changing  
6 energy landscape in Hawai'i.

7 But I think to answer the question of why  
8 is it so hard, I have a few thoughts. First of all,  
9 you know, energy is not the only thing that's been  
10 changing over the last few years in Hawai'i. And I  
11 appreciated the comments from Ms. Sato about how  
12 things changed at KS with the ouster of the old  
13 trustees and the adoption of a master plan.

14 But, you know, the lahui kept moving. It  
15 wasn't, like, okay, we fixed everything, and then  
16 we're done; right? I think that KS is still in many  
17 ways -- the Hawaiian community and the larger  
18 community in Hawai'i has continued to aggressively  
19 and rapidly evolve, particularly when it comes to  
20 questions about how we use land and how we use water  
21 and what it means to occupy these islands.

22 And, really, ultimately, what I'm getting  
23 at is that, you know, we are continuing to try and  
24 bolt things on and adjust things to the -- to a  
25 foundation that was laid in 1988 for -- at a time

1 when the dominant thinking in Hawai'i, and certainly  
2 the dominant thinking of Kamehameha Schools, was  
3 that land was something simply to be made money with  
4 so we could take our kids and educate them in the  
5 classroom.

6           And we're trying to keep adding stuff to  
7 that framework and say, oh, well, but this part's  
8 good, it's solar. Or, yeah, we're going to do  
9 housing. You know, but why do -- why does the Land  
10 Use Commission have, you know, a kind of set of  
11 responses to what's being proposed?

12           You know, every -- I come and hear, eh,  
13 every year we get attacked as being the barrier to  
14 housing in Hawai'i. And let me say one of the groups  
15 that regularly attacks us is the Land Use Research  
16 Foundation which, at least historically, was funded  
17 by KS. So it's kind of, you know, rich when we're  
18 letting you not build housing, and then somebody  
19 you're funding is attacking us for not being the  
20 barrier to housing.

21           You know, I don't agree with my fellow  
22 Commissioner Cabral that if we could build this, we  
23 could somehow bring down the price of housing. And  
24 the reason that -- I mean, I think we would provide  
25 housing at whatever the current price points are,

1 but we are blessed and cursed with an endless supply  
2 of people who want to live in Hawai'i at every  
3 single price point, from the poorest to the  
4 wealthiest in the world.

5 We will never be able to satisfy that  
6 demand. There's always going to be people who want  
7 to be here, because it's better than everywhere  
8 else.

9 So, you know, housing is important. We  
10 need to address it. That was certainly the promise  
11 that was initially made. But I think that's part of  
12 why we're reacting the way we are.

13 And then another thing that I think we're  
14 -- that I think is going on here -- like, why is  
15 this so hard -- is, like, there's a little bit of a  
16 pattern here. Kamehameha Schools takes this  
17 incredible trust ali'i asset, hands it to Gentry.  
18 Eh, you go. Didn't work out. They couldn't execute.  
19 So then, oh, so SunEdison, here you take it, you go.  
20 Oh, wait. Didn't work out.

21 Like, at some point, what is the pattern  
22 going on of, like, KS not really assuming it's ali'i  
23 role of really leading the way in what should happen  
24 to this aina.

25 So to me, that's actually what I expected

1 out of the master plan and the condition that we put  
2 in place. And I was there at that meeting when we  
3 agreed to a first change. But we said, you know  
4 what? We're going to get a master plan.

5 And I have to say when this docket, when  
6 this newest motion came in front of us and there was  
7 the condition that asked -- or the request to ask to  
8 waive the master plan because it had already been  
9 delivered -- I was, like, wait, it was delivered?

10 I didn't even recognize what was delivered  
11 before was necessarily as a master plan so much as a  
12 set of conceptual bubbles of the kind of things that  
13 we would want to do.

14 As far as I can tell, based on my  
15 understanding of the records and my reviews of the  
16 records, you know, there's still not in our  
17 discussions a recognition of the significance of  
18 this site.

19 I mean, if you think about the southern  
20 shore of O'ahu between Kamehame Ridge and Mililani  
21 Mauka, this is the last ridgeline, and it's not  
22 developed. It is of immense significance to this  
23 island, to KS, to its beneficiaries, to Hawaiians,  
24 to everybody.

25 That's absent. I've heard you say that

1 there's progress on infrastructure, but when I look  
2 at the 2021 response annual report to this  
3 commission -- we got a version of what the report  
4 was to the county -- none of that information I was  
5 able to find, that there has been progress made on  
6 developing backbone infrastructure.

7 I have not, in the previous presentation  
8 or now, really seen the level of engagement which I  
9 would expect in developing a true master plan. And  
10 so -- and this is where I'll stop talking and let  
11 you respond.

12 Well, one other thing. And in the proposed  
13 agreement between OPSD and the petitioner, an EA is  
14 not a substitute for a master plan either, in my  
15 mind -- an EA or an EIS. They are completely  
16 different documents. And I think that we, perhaps,  
17 erred as the Land Use Commissioner in accepting a  
18 master plan as somehow the endpoint to know that  
19 things were all good. Really?

20 A master plan should have been a  
21 reflection of a more key question. And for me, that  
22 key question is how can Kamehameha Schools develop  
23 and deepen the connection it has between this land  
24 and itself, its beneficiaries, the neighbors to this  
25 aina, and to the larger community?

1 A master plan should be a roadmap on how  
2 over the next decades those relationships are going  
3 to be built and connected and deepened. And that's  
4 what I think is why are we having such a hard time.  
5 That's why we're having such a hard time.

6 I would welcome Ms. Sato's responses.

7 **MS. SATO:** Mahalo, chair, for sharing your  
8 very insightful comments. And I'm glad that you  
9 answered that frustration that I reflected, because  
10 it has given me a better sense of foundation to what  
11 the commission faces, what the commissioners face in  
12 what is before you.

13 There are definitely times when sometimes  
14 we lock ourselves into what is just in front of us  
15 instead of taking the step backwards to see the  
16 bigger vision, so kala mai for my reaction and my  
17 response. And I do appreciate your comments. And I  
18 take your question to heart, your chosen question to  
19 heart.

20 And there are a few of us here at  
21 Kamehameha Schools that are listening to and  
22 participating, but also just listening in the  
23 audience to this entire hearing to date. And your  
24 question hits the spot, and something that we will  
25 definitely go back to our development team to



1 discuss.

2 And so mahalo nui for sharing your  
3 comments. Appreciate it, and thank you very much.

4 **CHAIR SCHEUER:** Mahalo nui.

5 Commissioners, are there further questions  
6 for the witness at this time? We might ask if you  
7 think you might have something later, the ability to  
8 recall the witness if Ms. Lim would agree. Are we  
9 good for now?

10 Commissioner Giovanni?

11 **COMMISSIONER GIOVANNI:** Totally good for  
12 now, but I think it would be beneficial if it comes  
13 to pass that we have further questions for a  
14 representative from the landowner, Kamehameha  
15 Schools, that that one be made available to us,  
16 whether it be Ms. Sato or some other person.

17 **CHAIR SCHEUER:** Ms. Lim, is that something  
18 that would -- if we believe that would greatly help  
19 us in our deliberations and our assistance in  
20 considering your petition, is that something that  
21 could be made available to us?

22 **MS. LIM:** Of course, chair. Ms. Sato will  
23 be here throughout the proceedings today on our  
24 motion.

25 **CHAIR SCHEUER:** And I'm just assessing the

1 proceedings perhaps beyond today, so.

2 **MS. LIM:** Again, the same response. This  
3 is very important to Kamehameha Schools.

4 **CHAIR SCHEUER:** Thank you.

5 Anything further, commissioners?

6 If not, then at this time, thank you very  
7 much, Ms. Sato, and we'll move on to the next  
8 witness from Kamehameha.

9 **MS. SATO:** Thank you.

10 **MS. LIM:** Okay. Commissioners, this is  
11 Jennifer Lim again for the record speaking, and our  
12 next witness is Mr. Nicholas Molinari.

13 **CHAIR SCHEUER:** Mr. Molinari, do you swear  
14 or affirm the testimony you're about to give is the  
15 truth?

16 **MR. MOLINARI:** Yes, chair.

17 **CHAIR SCHEUER:** Okay. Please proceed, Ms.  
18 Lim.

19 **MS. LIM:** Hi, Nick. I know this isn't the  
20 first time that you've had Land Use Commission  
21 proceedings, but would you please give the  
22 commissioners some information about your  
23 background, who you work for, what you do?

24 **MR. MOLINARI:** Sure. So first off, thank  
25 you, chair and members of the commission, for the

1 opportunity to be here today and to consider this  
2 matter.

3 My name is Nick Molinari. I'm a project  
4 development manager for the AES Corporation's solar  
5 plus storage projects throughout the state of  
6 Hawai'i.

7 I've worked in the renewable energy  
8 industry for 12 years. I've worked in the state  
9 since 2014. My primary focus in my current role is,  
10 you know, leading a team that's responsible for all  
11 of the preconstruction development efforts. So that  
12 includes site studies, securing land rights, design  
13 development, governmental approvals, permits, et  
14 cetera, in order to prepare the project for  
15 construction.

16 **MS. LIM:** Thanks, Nick. And just for the  
17 record, would you confirm that your resume was  
18 provided as Exhibit 16?

19 **MR. MOLINARI:** Yes. That is correct. My  
20 resume was provided as Exhibit 16.

21 **MS. LIM:** And again just for the record,  
22 the written direct testimony that was filed as  
23 Exhibit 27, was that your own written direct  
24 testimony?

25 **MR. MOLINARI:** Yes. Exhibit 27 is my

1 written direct testimony.

2           **MS. LIM:** Thanks, Nick. Would you give the  
3 commissioners just a brief explanation of the  
4 relationship between the AES Corporation? Because  
5 I've seen today a lot of people mentioned during  
6 public testimony in Waiawa Phase 2 Solar LLC, the  
7 proposed developer of this solar farm.

8           **MR. MOLINARI:** Yes. So Waiawa Phase 2  
9 Solar LLC is a wholly-owned indirect subsidiary of  
10 the AES Corporation. So it's typical that any time  
11 we're developing a project, we create a project-  
12 specific LLC which is wholly owned by the parent  
13 company, which is AES Corporation.

14           So the financial backing is AES  
15 Corporation. This is a company that's been active in  
16 the state for over 25 years, has numerous projects  
17 throughout the state of Hawai'i in construction and  
18 operations and development, is a Fortune 500 company  
19 with assets across multiple different technologies,  
20 not just solar, and, you know, operates  
21 internationally as well as locally.

22           **MS. LIM:** Thanks, Nick. And you just  
23 alluded to their big projects all over, but could  
24 you refresh the commissioners on projects that your  
25 company has actually built and that are operating in

1 the state of Hawai'i?

2 **MR. MOLINARI:** Sure. So like I mentioned -  
3 - sorry, there's a fly that just showed up right  
4 when I started talking, but I think I got it.

5 So we have operated the coal plant at  
6 Barbers Point for over 25 years. The company has,  
7 you know, over the last several years, begun to  
8 transition to renewable energy. It is committed to  
9 continuing that transition.

10 So we have currently over 60-megawatts of  
11 renewable energy projects that are in operations.  
12 Some of them are actually very similar to the Waiawa  
13 Phase 2 Solar Project. Two are in operations on the  
14 island of Kaua'i and have been for a few years now.

15 We also have over 200-megawatts of  
16 projects, you know, throughout Maui, O'ahu, Big  
17 Island, and Kaua'i that are in development and/or in  
18 construction right now. So we're one of the few  
19 developers in the state that's actually -- you know,  
20 has renewable projects that are, you know, in the  
21 ground and operating or is actually, you know,  
22 building actively.

23 **MS. LIM:** Thanks, Nick. You know, I gave a  
24 very general description of your project during my  
25 opening statement, so I don't think we need to

1 repeat that for the commissioners. But would you let  
2 them know, essentially, how much energy this project  
3 is projected to generate, whether that's looked at  
4 in terms of fuel avoidance, megawatts, greenhouses  
5 gases, in whatever form that you think would be most  
6 useful for the commissioners?

7 **MR. MOLINARI:** Sure. So, you know, in  
8 terms of energy, the project is projected to -- I  
9 think the way to describe it would be in terms of,  
10 you know, 108,000 -- just under 108,000-watt hours.  
11 It's 30-megawatt AC, 60-megawatt DC, and 240-  
12 megawatt hours of battery storage.

13 So, you know, unlike a lot of, you know,  
14 more traditional solar farms, you know, that when  
15 the sun's out they're producing energy whether the  
16 grid actually needs it, this project does  
17 incorporate a rather large battery energy storage  
18 system that's capable of storing the solar energy  
19 and releasing it at times when it's actually needed,  
20 like at nighttime, for example.

21 There's been discussion, you know, earlier  
22 this morning about, you know, the benefits. You  
23 know, just to reiterate some of those in terms of  
24 environmental benefits, the project would, you know,  
25 avoid the need for 2.9 million barrels of fossil

1 fuel from needing to be imported and burned on the  
2 island over the project's life.

3           It would also result in a net reduction  
4 of, you know, a million metric tons of greenhouse  
5 gases over the project life. So, you know, pretty  
6 considerable environmental benefits, you know. The  
7 power that it would produce, just to kind of put it  
8 in perspective, is estimated to, you know, provide  
9 enough energy for the equivalent of 18,000 O'ahu  
10 homes.

11           **MS. LIM:** Is that 18,000 a year or  
12 throughout the whole term of the project?

13           **MR. MOLINARI:** That's 18,000 a year.

14           **MS. LIM:** I may combine two questions. Do  
15 you have an approved power purchase agreement and do  
16 you have an approved interconnection study?

17           **MR. MOLINARI:** We do have an approved  
18 power purchase agreement. It was approved by the  
19 Public Utilities Commission in December of 2020, and  
20 the interconnection study was completed in July of  
21 2021.

22           **MS. LIM:** And what is the term of the  
23 power purchase agreement? And just to put some color  
24 on that, you've heard questions coming from the  
25 commissioners addressing Ms. Sato regarding the term

1 of the lease, so please frame your response to be  
2 responsive to those questions as well.

3 What is the term of the PPA and what is  
4 your ability to try to extend or get a new PPA to  
5 fit within the 10-year timeframe that Commissioner  
6 Giovanni was focusing on?

7 **MR. MOLINARI:** Sure. So just starting with  
8 the PPA term, it's a 10-year PPA. It commences on  
9 the commercial operations date, which is expected to  
10 be October 30th of 2023. You know, there was a lot  
11 of discussion around the terms of the, you know, the  
12 lease, so the -- just to -- not to rehash it all  
13 again, but Parcel A is through December 31st, 2044.  
14 Parcel B is through December 31st, 2054.

15 So, you know, at the -- this technology  
16 does have a design life that's much longer than 20  
17 years. You know, the reason the PPA is only 20 years  
18 is because we're, you know, we're restricted by, you  
19 know KS' master plan development.

20 So, you know, there will be additional,  
21 you know, asset value, useful value with the  
22 components that are on Parcel B, you know, through  
23 2054. And we believe that it is our intent to, you  
24 know, to seek, you know, a continuation of  
25 operations for that specific parcel.



1           **MS. LIM:** Thanks, Nick. But it is your  
2 representation that if you don't get a continuation  
3 of operations -- and by saying that, I think you  
4 mean either a new PPA or an extension to the PPA --  
5 that Parcel B will be decommissioned shortly after  
6 Parcel A? In other words, both parcels will be  
7 completely clear of solar infrastructure by the end  
8 of 2044?

9           **MR. MOLINARI:** Yeah. That's correct. And,  
10 you know, I believe it's in the stipulation, Exhibit  
11 40, in regards to timing of decommissioning,  
12 condition 8, you know.

13           If there's no -- if we're unsuccessful in  
14 securing a source of revenue, you know, which would  
15 be in this case power sales, you know, with the  
16 project, there's no value in the project.

17           So, you know, there's this certain amount  
18 of time we would have to try to find a new source,  
19 you know, a new power purchase agreement. But if  
20 we're unsuccessful, the project will be packed up  
21 and removed.

22           **MS. LIM:** Changing gears real quick, I  
23 know Ms. Sato touched on the community benefits that  
24 would come from your project if the commission were  
25 to approve it, but could you just refresh the

1 commission on that? Explain to them what your  
2 understanding is of your agreement with KS regarding  
3 the community benefits.

4 **MR. MOLINARI:** Sure. So, you know, as  
5 part of our agreement with KS, you know, we are  
6 committed to working on an educational program. We  
7 would invest in a program to provide some of our  
8 know-how, you know, in terms of internships,  
9 scholarships, you know, various programs for direct  
10 engagement with students and teachers, you know, on  
11 an educational program, you know, to facilitate, you  
12 know, the growth of the green energy economy, which  
13 will become more and more relevant, you know, as  
14 time goes on.

15 So really focused on youth. And it's a  
16 partnership that both KS and AES are committed to.  
17 And we're, frankly, quite excited about it. It's one  
18 of the unique benefits that, you know, this project,  
19 you know, has the opportunity to provide.

20 **MS. LIM:** Earlier today, in fact a few  
21 times today, we put up on the screen Exhibit 40,  
22 which is the stipulation of conditions. We don't  
23 need to pull it up now.

24 But there are certain conditions in this  
25 situation that are really -- they really fall

1 primarily on the shoulders of the solar developer,  
2 like the construction traffic management plan, like  
3 the commitment to decommission in a certain manner.  
4 Like the, you know, commitment to adhere to those  
5 various wildlife avoidance, mitigation measures.

6 I'd like to hear your representations to  
7 the commission regarding adherence to those  
8 conditions.

9 **MR. MOLINARI:** Yes. So my understanding,  
10 again, is that it's -- the stipulation is Exhibit  
11 40. And, you know, Waiawa Phase 2 Solar would adhere  
12 to those conditions and comply with those  
13 conditions, if the commission chooses to approve the  
14 motion and impose those conditions.

15 **MS. LIM:** Thanks. And just to be real  
16 specific, one of those conditions requires  
17 compliance, satisfaction with the approved -- SHPD-  
18 approved preservation plan to address some of the  
19 old plantation-era infrastructure that's on the  
20 property.

21 So does your representation include  
22 complying with those conditions on the preservation  
23 plan?

24 **MR. MOLINARI:** Yes. Absolutely. So there  
25 is some plantation-era irrigation infrastructure

1 throughout the petition area. You know, we -- if the  
2 preservation plan requires those features to be  
3 preserved with a buffer or new fencing, we've  
4 actually already implemented the short-term  
5 preservation measures. We did that in October 2021,  
6 and will comply with the permanent preservation  
7 measures before commercial operations of the solar  
8 farm.

9 **MS. LIM:** Thanks, Nick. And just for  
10 clarification, are those preservation sites or the  
11 buffers within the footprint of your solar farm?

12 **MR. MOLINARI:** They're within the  
13 footprint of the 387-acre area that is for the --  
14 you know, what's called the Phase I solar project.  
15 But they are outside of our -- you know, where our  
16 project improvements are going to be. So we'll be  
17 outside the fence.

18 There's no -- you know, we kind of  
19 designed -- even though we're buffering them, that's  
20 really for compliance with the preservation plan and  
21 to make sure there's no inadvertent impacts to those  
22 resources. But our fence -- they're basically  
23 outside of our fence line.

24 **MS. LIM:** Thanks, Nick. I just have one  
25 last question before I turn you over to the other

1 parties and to the commissioners. And that's is  
2 there anything you think we didn't touch on that  
3 you'd like to make sure the commissioners and the  
4 other parties hear from you today?

5 **MR. MOLINARI:** I think, you know, I think  
6 the testimony from Dana and the examination was  
7 pretty comprehensive. I'm incredibly grateful to the  
8 chair and the commissioners for, you know, the  
9 opportunity to, you know, discuss this project.

10 You know, this project is an important  
11 one. It's coming at an important time. You know, we  
12 know that, you know, the coal plant is closing in  
13 September. That's a 180- megawatt loss in  
14 generation.

15 We know that the governor has formed a  
16 task force, you know, as kind of an emergency to  
17 find and ensure that there's no disruption and, you  
18 know, an adequate supply of energy to ratepayers.

19 We know Hawaiian Electric is, you know, is  
20 taking this seriously and, you know, there's cross  
21 efforts between various state and county agencies to  
22 make sure that, you know, projects like this are  
23 moving forward and, you know, are there to support,  
24 you know, the pending loss of the coal plant.

25 You know, overall, you know, I don't want

1 to -- I want to respect the commissioners' time, and  
2 I don't want to go into, you know, every single  
3 detail, but again, significant environmental  
4 benefits, as I think we all know -- and I'm happy to  
5 speak more to those if commissioners have questions  
6 -- economic benefits in terms of jobs and economic  
7 output, and really opportunity to train a local  
8 workforce and give a local workforce skills to work  
9 on projects like this that are, you know, frankly,  
10 going to be more and more frequent and more and more  
11 imperative as, you know, as the -- in the future,  
12 and through the educational program with KS to, you  
13 know, really foster, you know, engagement with the  
14 youth, because ultimately, that's what this is  
15 about.

16           So again, one other thing. I know, you  
17 know, we discussed some of the community engagement.  
18 We discussed, you know, the resolutions in support  
19 that we received from three of the adjacent  
20 neighborhood boards. Those were nearly unanimous  
21 approvals. There was just one abstention.

22           And we're committed to, you know,  
23 continuing to engage with the local community, the  
24 landowner, and all stakeholders so that, you know,  
25 we could be a good neighbor. We don't just develop

1 projects and leave them. We own and operate them,  
2 you know, for the long term. And so it's about, you  
3 know, being a member of the community.

4 **MS. LIM:** Do you know -- forgive me, I  
5 have one more question. Apologies. But just hearing  
6 you say all of that, Nick, when you talk about being  
7 a good neighbor, does that include being a good  
8 neighbor to the people who are going to live in the  
9 homes that are going to get built while your solar  
10 farm is in place, the other people who are living  
11 within the KS master plan?

12 **MR. MOLINARI:** Yeah. I'm glad you asked  
13 that. So, you know, we'll be a tenant. You know,  
14 it's our responsibility to make sure we're getting  
15 along and, you know, not causing any impacts or  
16 detriments to the forthcoming communities.

17 These projects can co-exist. You know,  
18 there's -- our area is 387 acres of the overall  
19 petition area, which is almost 1,500, and like Dana  
20 described where, you know, KS will be building their  
21 phases from the south up, whereas we're kind of up  
22 in the far northern segment. And over the course of  
23 our operation, you know, we'll certainly, you know,  
24 work with all stakeholders to make sure we're a good  
25 neighborhood.

1 **MS. LIM:** Thank you for that.

2 And now I actually have no further  
3 questions for Mr. Molinari.

4 **CHAIR SCHEUER:** Thank you very much.  
5 Department of Planning and Permitting? Ms.  
6 Weaver?

7 **MS. WEAVER:** DPP has no questions. Thank  
8 you.

9 **CHAIR SCHEUER:** Okay. Office of Planning  
10 and Sustainable Development? Mr. Yee?

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

12 **CHAIR SCHEUER:** Commissioners, questions  
13 for this witness? I'm looking for Commissioner  
14 Wong's paddle, but I don't see it.

15 **COMMISSIONER WONG:** Okay.

16 **CHAIR SCHEUER:** Commissioner Chang?

17 **COMMISSIONER CHANG:** Thank you, Mr.  
18 Molinari. I generally defer to Commissioner  
19 Giovanni. This is his area of expertise. But let me  
20 sort of ask you a question to help me better  
21 understand this agreement.

22 You have Parcel A and B. You have two. So  
23 aren't they -- do you have two separate PPAs or two  
24 separate leases? How do you differentiate the, you  
25 know, the end date and the decommissioning period?



1           **MR. MOLINARI:** Thank you, Commissioner  
2 Chang. So it's a single power purchase agreement  
3 with Hawaiian Electric, which encompasses the solar  
4 that is on both Parcel A and Parcel B for 20 years.

5           Our agreement with KS is such that we have  
6 to be off of Parcel A by no later than December  
7 31st, 2044. So the PPA with HECO is set to expire a  
8 year before that.

9           So at some point -- you know, we won't  
10 wait until the very end, but at some point before  
11 that time, we'll need to secure a new agreement  
12 specifically for Parcel B, the portion of the  
13 project that is on Parcel B, for the remaining 10  
14 years that we have rights to under our agreement  
15 with KS specific to Parcel B.

16           **COMMISSIONER CHANG:** With respect to  
17 Parcel A -- and again, my recollection is that's the  
18 parcel that has a shorter time period -- is that  
19 specifically specified in your lease with KS that  
20 there's a firm drop termination date?

21           **MR. MOLINARI:** Yes, commissioner.

22           **COMMISSIONER CHANG:** Okay. So you cannot  
23 ask for an extension?

24           **MR. MOLINARI:** For Parcel A, the drop-dead  
25 date is December 31st, 2044. The agreement does

1 state that, you know, by written agreement between  
2 the parties, the term not specific to Parcel A or  
3 Parcel B but the whole area can be extended, but no  
4 later than 35 years from the date of commercial  
5 operations. So the cliff date, if you will, if the  
6 parties were to agree to an extension, would be 35  
7 years from commercial operations.

8 Now, if KS, you know, continues their  
9 development -- master development plans in the  
10 timeline that they're expected to and that they've  
11 represented they will, they will not consent to, you  
12 know, giving us an extension, nor would we  
13 necessarily pursue an extension.

14 **COMMISSIONER CHANG:** That's kind of a bold  
15 statement. They will not. Do you know that for sure?  
16 Is that included in the writing? You're just  
17 presuming that they're going to stay with their  
18 phased development for the master plan and that they  
19 will need Parcel A within -- by the 2044. You're  
20 assuming that.

21 **MR. MOLINARI:** Yes, commissioner. Sorry  
22 for my choice of words. I can't say with 100 percent  
23 certainly that KS will not, but what I can say is  
24 that the agreement does state that the absolute  
25 longest that the term could be extended is 35 -- a

1 total of 35 years from commercial operations.

2 **COMMISSIONER CHANG:** Okay. That's helpful.

3 My concern is that we have had several extensions,  
4 and it's not just -- not just, you know, AES, but  
5 for other previous solar farms. They were not able  
6 to do it.

7 So we are all relying upon representations  
8 that this master plan and these housing phases are  
9 going to be timely developed, but having sort of  
10 this escape clause, that everything is tied  
11 together, so with the Land Use Commission approval,  
12 they could possibly extend both Parcel A and B for  
13 an additional 10 years. That's according to your  
14 lease; right?

15 **MR. MOLINARI:** That is correct. With the  
16 commission's approval, they could extend.

17 **COMMISSIONER CHANG:** So which may or may  
18 not have an impact to their master plan phased  
19 development. But like I said, it just -- it just  
20 gives me some anxiety on the representations that,  
21 you know, they're going to decommission at a certain  
22 period of time.

23 But your own lease agreement with them  
24 treats the entire parcel subject to the 35-year --  
25 it can be no longer. So that could apply to both

1 Parcel A and B. But I understand you. All right.

2 Thank you very much.

3 **MR. MOLINARI:** Thank you, commissioner.

4 **CHAIR SCHEUER:** Thank you, Commissioner

5 Chang.

6 The rest of the commissioners are relieved  
7 to see that Commissioner Giovanni has finally raised  
8 his hand.

9 So, Commissioner Giovanni?

10 **COMMISSIONER GIOVANNI:** Yeah. I just  
11 wanted to follow up a little bit.

12 Thank you, Nick -- Mr. Nick Molinari,  
13 referred to as Nick, but I don't know him  
14 personally.

15 Sorry about that, chair.

16 And thanks for all the great work that AES  
17 has done in the energy sector in Hawai'i over the  
18 years and continues to do. I commend you for that.

19 I want to pick up on this timing issue.  
20 Were you watching or participating or tuning in to  
21 the sessions today when Ms. Sato was testifying?

22 **MR. MOLINARI:** Yes, Commissioner Giovanni.

23 **COMMISSIONER GIOVANNI:** So my takeaway  
24 from her testimony was under no circumstances would  
25 KS agree to extend Parcel A beyond the 2044 and

1 Parcel B beyond 2054. Did you hear her say that, or  
2 did I get it wrong?

3 **MR. MOLINARI:** Commissioner, I don't want  
4 to misrepresent. I know there was -- this topic was  
5 discussed at length, and I cannot say with  
6 certainty, you know, what -- I can't say with  
7 certainty.

8 **COMMISSIONER GIOVANNI:** Yeah. Because  
9 there's apparent -- if that was the case, which I  
10 think I heard pretty clearly that 2054 would be the  
11 absolute end date for Parcel B, that would render  
12 moot your potential for a 35- year term to that  
13 property. A 35-year term would go for another 15  
14 years, not 10 more, all the way to 2068, if my math  
15 is correct.

16 **MR. MOLINARI:** Well, I think -- thank you,  
17 commissioner. I think the way I understand our  
18 agreement with KS is the term is 2044 for Parcel A,  
19 2054 for Parcel B. And then the next provision  
20 states that, you know, this term can be extended by  
21 written agreement between the parties, but in no  
22 event can the total term exceed 35 years from the  
23 commercial operations date.

24 So if the commercial operations date was, as  
25 expected, October 2023.

1           **COMMISSIONER GIOVANNI:** 2058.

2           **MR. MOLINARI:** Right. Right. Would be the  
3 absolute drop-dead latest.

4           **COMMISSIONER GIOVANNI:** Yeah. I think  
5 you're correct. 2058 instead of 2068, as I referred  
6 to earlier.

7                    Would it be unusual, or has it ever been  
8 done, with all of your development, renewable energy  
9 development and any firm development history you  
10 have in Hawai'i, are you aware of the 10-year PPA  
11 extension ever occurring?

12           **MR. MOLINARI:** We typically want to -- as  
13 you know, commissioner, you know, the longer term  
14 the better. So a 10-year would be unusual.

15                    With that being said, you know, this -- in  
16 this case, the current 20-year PPA, we will have  
17 already, you know, captured our return on  
18 investment. And since there's still, you know,  
19 useful life on the system, you know, we feel that we  
20 would be able to make a very competitive offering,  
21 even at a, you know, a reduced 10-year term, since,  
22 you know, the project has essentially largely been  
23 paid for, and we're just kind of reusing existing  
24 assets.

25                    We think that would -- I mean, it's a

1 risk, certainly, but, you know, we think we would  
2 have a pretty good value proposition against  
3 developers who, you know, would be starting from  
4 scratch, even if they have the advantage of longer  
5 terms.

6 **COMMISSIONER GIOVANNI:** Agreed. And then  
7 listening to you describe how that would occur or  
8 might occur, there's a suggestion of a competitive  
9 process; is that correct?

10 **MR. MOLINARI:** Yes. It's hard to say, you  
11 know, in 20 years, what the marketplace is going to  
12 look like. But based on what we know right now the  
13 solicitations by HECO are typically competitive.  
14 Yes.

15 **COMMISSIONER GIOVANNI:** Right. So  
16 basically what you're saying is that unless things  
17 change from the way business is conducted today, you  
18 would have to compete for the opportunity for an  
19 extension and most likely, you'd be competing  
20 against green site developers that would propose a  
21 much longer term for the project; is that correct?

22 **MR. MOLINARI:** Most likely, yes. Based on  
23 what we know today, yes.

24 **COMMISSIONER GIOVANNI:** So how business is  
25 conducted today.

1 **MR. MOLINARI:** Yes.

2 **COMMISSIONER GIOVANNI:** Being subject to  
3 change.

4 And I think the part of the consternation  
5 of some of my commissioners today is that on the one  
6 hand, the representations in what we're being asked  
7 are pretty clear and well-defined -- 2044, 2054.

8 But during the course of the hearing,  
9 we're hearing about, yeah, but there's a provision  
10 to go an extra 15 years if we can get people to  
11 cooperate and agree to that later.

12 That type of thing gives us pause,  
13 especially when the original intent for the  
14 development of this land was for housing, and we  
15 haven't seen much in the way of action there, but  
16 we've seen tremendous amount of action in terms of  
17 way of solar development. So that's where it's --  
18 that's where our consternation is coming from.

19 But again, I thank you for the work you've  
20 done and the work your corporation has done in the  
21 energy section in Hawai'i and for respecting the  
22 land as you do it. So thank you very much. No  
23 further questions.

24 **CHAIR SCHEUER:** Thank you, Commissioner  
25 Giovanni.



1 Commissioners, anything further for this  
2 witness?

3 Commissioner Cabral?

4 **COMMISSIONER CABRAL:** Yes. Thank you.

5 Thank you. I'll be brief.

6 I was reviewing things, and typically, I  
7 do not recall reading anything in the information I  
8 have -- and it may be that it was in prior  
9 references in the prior hearings -- but typically,  
10 when we're reviewing these photovoltaic petitions,  
11 they reference their additional agriculture use on  
12 the land.

13 Now, I understand some of your land has  
14 already been zoned urban, and so therefore may not  
15 be subject to this. Are there plans of having any  
16 agricultural use on this land under or in between  
17 your photovoltaic panels that would be, I assumed,  
18 raised from the ground?

19 **MR. MOLINARI:** Thank you, Commissioner  
20 Cabral. So not in this case, unfortunately, because  
21 it is zoned urban and would contradict with the  
22 city's ordinance about what is and isn't allowed in  
23 this district.

24 We do, you know, as you may know, have a  
25 number of compatible agriculture operations on

1 existing solar farms on Kaua'i and other projects  
2 throughout the state, but in this case -- and in  
3 most cases, it's ag land -- un this case, it's  
4 urban, so we will not.

5 **COMMISSIONER CABRAL:** So you're going to  
6 have to mow those lawns as opposed to having sheep  
7 or goats mow them for you, huh? Okay. Thank you very  
8 much for the information. It's kind of a waste of  
9 situation. Okay. Thank you.

10 **MR. MOLINARI:** Thank you, Commissioner  
11 Cabral.

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

14 Commissioner Wong?

15 **COMMISSIONER WONG:** Thank you, chair.

16 Mr. Molinari, there's a couple of things.  
17 First thing, I just want to make sure in my mind  
18 that when we talk about the decommissioning that,  
19 you know, at whatever date it was, 2044 or 2054,  
20 does that include, you know, the busting of the  
21 cement and, you know, all that stuff? Is that part  
22 of it that AES will do?

23 **MR. MOLINARI:** Yes, Commissioner Wong. It  
24 will be complete removal of everything related to  
25 the system, including concrete and all materials.

1           **COMMISSIONER WONG:** So the other question  
2 I have, then -- I forgot where I read it in this  
3 portion -- is I think someone said, some agency  
4 talked about pesticides and, you know, weedkillers  
5 and all that, that you have concerns for the water.  
6 I mean, how will you -- how will AES deal with that  
7 issue, that it doesn't seep in?

8           **MR. MOLINARI:** Yeah. That's a good  
9 question, Commissioner Wong. So typically, we avoid  
10 the use of pesticides, you know, any use.

11           So like actually Commissioner Cabral  
12 alluded to, these panels are raised up where, you  
13 know, you could actually drive a tractor underneath  
14 them if they're at the proper angle. And usually,  
15 during maintenance activities, they are set at the  
16 proper angle where, you know, mobility is not  
17 restricted so that the landscaping group can access  
18 the area as they need to.

19           Herbicides are typically used in very  
20 limited locations. It would be like spot treatment  
21 of certain areas and not, you know, to the extent  
22 that, you know, would cause any sort of  
23 environmental impact or seepage into the groundwater  
24 system. It wouldn't be on a mass scale or at a scale  
25 that it would, you know, risk causing disruption to

1 the water table.

2 **COMMISSIONER WONG:** That's it, chair. It's  
3 just a statement I was having just because of, you  
4 know, the Red Hill issue, and I was reading that in  
5 the information that we received in this docket. So  
6 thank you, chair.

7 Thank you, Mr. Molinari:

8 **CHAIR SCHEUER:** Thank you very much,  
9 Commissioner Wong.

10 Anything further for this witness? Seeing  
11 none, I'm going to ask for a brief break for the  
12 restroom. It's 2:19. I want to resume at 2:25, and  
13 then we will go until 3:00, at which time we will  
14 lose Commissioner Wong.

15 Should for some reason the petitioner  
16 finish its presentation prior to that, we will end  
17 at that time. But if not, we will go as far as we  
18 can with petitioner's witnesses today and then  
19 continue at the next time we're able to schedule  
20 this matter.

21 We will go into recess until 2:25, six  
22 minutes.

23 **(Recess taken from 2:19 - 2:26 p.m.)**

24 **CHAIR SCHEUER:** We are back on the record.

25 If I confused anybody with my remarks

1 right before the break, I apologize. We're going to  
2 go until 3. We're going to go until 3. We will end  
3 our proceedings today at 3. Should by any chance Ms.  
4 Lim get through her next two witnesses before 3,  
5 we'll stop there. But that seems visionary.

6 So, Ms. Lim, would you call your next?

7 **MS. LIM:** Sure. Thank you, chair.

8 Our next witness is Ms. Lisa Kettley.

9 **CHAIR SCHEUER:** Good afternoon, Ms.  
10 Kettley. Would you affirm or swear that the  
11 testimony you're about to give is the truth?

12 **MS. KETTLEY:** Yes. I do.

13 **CHAIR SCHEUER:** Your witness.

14 **MS. LIM:** Thank you.

15 Ms. Kettley, hi. We're in the same room,  
16 but I'm going to look at you through the computer  
17 monitor. You just confirmed your name to the chair.  
18 Would you also let the chair and the other  
19 commissioners know who you work for, your business  
20 address, and what you do at your job?

21 **MS. KETTLEY:** Sure. Again, my name is Lisa  
22 Kettley. I am a senior planner and project manager  
23 at Tetra Tech. My business address is 737 Bishop  
24 Street, Suite 2340, Honolulu, Hawai'i 96813.

25 **MS. LIM:** Thank you, Lisa. And for the

1 record, too, a compound question, is a copy of your  
2 resume provided as Exhibit 17? And the second part  
3 of the question is would you affirm that your  
4 written direct testimony is the document that we  
5 filed as Exhibit 28?

6 **MS. KETTLEY:** Yes. My resume is included  
7 as Exhibit 17, and the copy of my written direct  
8 testimony is included at Exhibit 28.

9 **MS. LIM:** So rather than dragging folks  
10 through your resume, could you give the  
11 commissioners some information about your  
12 educational and professional background?

13 **MS. KETTLEY:** Sure. I have a bachelor's of  
14 science in environmental studies from the University  
15 of Oregon and a master's of biological sciences from  
16 Stanford.

17 I've been working on land use permitting  
18 and environmental impact assessments for more than  
19 20 years, most of that time in Hawai'i. And I've  
20 been particularly focused on renewable energy for  
21 the last 10-plus years.

22 **MS. LIM:** And how about professional  
23 organizations related to the planning, permitting,  
24 and environmental review?

25 **MS. KETTLEY:** Yes. I'm a member of the

1 American Planning Association, both at the national  
2 and local levels, as well as the Hawai'i Association  
3 of Environmental Professionals.

4 **MS. LIM:** Now, Lisa, I know this, but I  
5 want you to confirm it to the commission. You've  
6 worked on projects that have come before the state  
7 Land Use Commission, but have you ever been  
8 designated as a -- ever spoken as a witness before  
9 the Land Use Commission?

10 **MS. KETTLEY:** No. I've not come as a  
11 witness before the Land Use Commission, but you're  
12 correct. I've worked on, I think, four solar  
13 projects that have come before the Land Use  
14 Commission previously.

15 **MS. LIM:** So in light of Ms. Kettley's  
16 background, her educational background, her  
17 professional background, and her history with solar  
18 projects, at this point, I'd like to ask the  
19 commission if they would please recognize her as an  
20 expert in land use permitting and environmental  
21 reviews.

22 **CHAIR SCHEUER:** Any objection from the  
23 county?

24 **MS. WEAVER:** No objections.

25 **CHAIR SCHEUER:** OPSD?

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

2           **CHAIR SCHEUER:** Commissioners?

3           Ms. Lim, you suggested that not appearing  
4 before us before was a bad thing rather than to her  
5 benefit, but nonetheless, yes, we'll recognize her  
6 as an expert.

7           **MS. LIM:** Thank you very much, chair and  
8 commissioners.

9           Lisa, again, you've got extensive written  
10 testimony already on the record, so let's touch on  
11 just a couple of the high points. What's your role  
12 in this project?

13           **MS. KETTLEY:** My role to date has been to  
14 coordinate and oversee various due diligence  
15 studies. These have included a biological research  
16 survey, visual simulations, and a glare assessment.  
17 I also have and will continue to provide support for  
18 the applicable permitting processes.

19           **MS. LIM:** Now, is your role at all  
20 involved in the master plan, the Kamehameha Schools  
21 master plan?

22           **MS. KETTLEY:** No. I have had no role in  
23 the master plan.

24           **MS. LIM:** So again, you're really  
25 singularly focused on the solar farm, the subject of



1 the motion today.

2 **MS. KETTLEY:** Yes. That's correct.

3 **MS. LIM:** Could you tell the commission  
4 briefly what the basic land use layers are that are  
5 applicable to the solar farm? So by that, I mean the  
6 state land use districts, the county zoning, the  
7 applicable county planning documents. And please let  
8 us know if you care to point to any of the exhibits  
9 as you're going through those answers.

10 **MS. KETTLEY:** Sure. I think the applicable  
11 exhibits are Exhibits 1 through 4. I think the  
12 commissioners have -- you know, we've seen Exhibit 2  
13 a couple of times, but I can just -- maybe if we  
14 start at Exhibit 2, I can just quickly, you know,  
15 point out that that is the -- the yellow area is the  
16 overall petition area. And again, the area in pink  
17 is the AES project, so that when I refer to the  
18 project area, I'm referring to that 387-acre area  
19 shown in pink.

20 So looking at Exhibit 1 again, that shows  
21 that the entire project area --

22 Sorry, could we switch to Exhibit 1? Yeah.

23 So that shows that the entire area is  
24 within the urban land use district. If we can then  
25 switch to Exhibit 4, this shows the county level,

1 the Central O'ahu Sustainable Communities Plan. And  
2 this was recently updated just in 2021.

3 And this Exhibit 4 is showing the land use  
4 map from the Sustainable Communities Plan. And what  
5 you're seeing with that red outline is the entire  
6 petition area. So again, the AES project area that  
7 we're referring to is up -- sits up in that northern  
8 portion.

9 And what this land use map shows is that  
10 the land uses within the project area are a  
11 combination of urban land uses intermixed with some  
12 preservation. And specifically, the yellow is  
13 residential low-density apartments. The purple is  
14 industrial, and that pink is a major community  
15 commercial center.

16 I'd also like to point out that the  
17 Sustainable Communities Plan does specifically  
18 acknowledge the two solar farms on the Waiawa  
19 property. In terms of zoning, which I believe is --

20 **MS. LIM:** You know, I just want to  
21 interrupt you, because I don't see the two solar  
22 farms on this Sustainable Communities Plan map. So  
23 where is it recognized that this is going to be two  
24 solar farms?

25 **MS. KETTLEY:** It is discussed in the text

1 of the plan. The plan specifically calls out as part  
2 of -- as part of the plan, they're spoken to in the  
3 plan itself.

4 **MS. LIM:** And you said that was just  
5 passed by the city council in 2021; is that correct?

6 **MS. KETTLEY:** Correct.

7 **MS. LIM:** Okay. Thank you.

8 **MS. KETTLEY:** Yeah. No problem.

9 So lastly, in terms of zoning, there we go  
10 on Exhibit 3. Again, the project sits up in the  
11 northern portion of the petition area, and the  
12 applicable zones R-5, which is residential; A-1,  
13 which is apartment; B-2, community business  
14 district; and IMX, commercial mixed use. And the  
15 project area does slightly overlap with the P-2 zone  
16 both on the southern and northern tips.

17 **MS. LIM:** So, Lisa, with the zoning, the  
18 city zoning that's in place, can livestock be  
19 incorporated into the solar farm -- for instance,  
20 within the IMX-1 zoning district?

21 **MS. KETTLEY:** No. Based on the land use  
22 ordinance, grazing is not allowed in the zones, with  
23 the exception of P-2. But again, that would just be  
24 very, very small slivers of the project area.

25 **MS. LIM:** Thanks. Do you still need this

1 exhibit up?

2 **MS. KETTLEY:** No. Thank you.

3 **MS. LIM:** Lisa, you mentioned that you  
4 conducted or oversaw a few studies that were  
5 prepared to look at the impacts of the solar farm.  
6 Would you give the commissioners just a big, you  
7 know, a big picture overview from the visual  
8 simulation study?

9 **MS. KETTLEY:** Thank you. Yeah. So we  
10 prepared visual simulations from six locations  
11 surrounding the project area. These include areas  
12 along the H-2 corridor from the northwest, west, and  
13 southwest of the project, as well as areas to the  
14 southeast. And those visual simulations are included  
15 as Exhibit 6.

16 And what those visual simulations showed  
17 is from three of the viewpoints, the project would  
18 not be visible. The components would be blocked by  
19 intervening topography and vegetation.

20 From the other three simulations, portions  
21 of the project would be visible, but they would be  
22 seen off at a distance. They would have very low  
23 profile and would not block views of the Koolau  
24 mountains and would be seen in the context of all  
25 the surrounding urban development -- you know,

1 things like transmission lines, the H-2 corridor,  
2 and other urban structures.

3 So based on those simulations, the project  
4 is not expected to have a significant impact on  
5 scenic resources.

6 **MS. LIM:** Thanks, Lisa. And what about a  
7 glare assessment? Is there any concerns of glare  
8 that would either impact people driving on the  
9 roadways or impact the airports and the airplanes  
10 flying overhead?

11 **MS. KETTLEY:** No. The project's not  
12 expected to have any glare impacts. And I think it's  
13 important to first acknowledge the fact that the  
14 solar modules are designed to absorb as much light  
15 as possible. They also do incorporate anti-  
16 reflective coating.

17 Furthermore, a glare assessment was  
18 conducted using GlareGauge, which is an industry  
19 standard modeling tool. The analysis considered a  
20 variety of receptors from the surrounding area,  
21 including roadways as well as flight paths. And the  
22 model results indicated no predicted glare for any  
23 of the receptors.

24 And those results were submitted to FAA  
25 for review, and FAA provided a written determination

1 of no effect for the project.

2 **MS. LIM:** Thanks for that determination.

3 Of course, we have these exhibits that we could call  
4 up if any commissioners or the parties wanted to see  
5 them on their screen.

6 I'll just move quickly to ask you to  
7 summarize the biological study. You said you  
8 prepared a biological study.

9 **MS. KETTLEY:** The biological survey showed  
10 that the area has been heavily modified by previous  
11 agricultural activities associated with sugar  
12 cultivation on the property. The land's dominated by  
13 non-native species, and no federally or state-listed  
14 species were observed during the survey, nor is any  
15 portion of the project area designated as critical  
16 habitat.

17 Nevertheless, the report did include  
18 recommendations for standard impact avoidance  
19 measures. And I do want to point out that the  
20 wildlife protection measures that are included as --  
21 I think it's condition 11 in the stipulation between  
22 OPSD and KS -- are generally consistent with the  
23 recommendations in the biological report.

24 **MS. LIM:** Thanks for that. Lisa, this is  
25 the State Land Use Commission, and so we've gone

1 over the important elements of, you know, what is  
2 the zoning, what is the state land use designation  
3 for the property.

4 Another important consideration that the  
5 State Land Use Commission has to take into  
6 consideration is is it consistent with the Hawai'i  
7 state plan? Is the solar farm? We already know that  
8 developing this land for residential use is  
9 consistent with the Hawai'i state plan, but what  
10 about solar farms uses?

11 **MS. KETTLEY:** Yeah. The project is  
12 consistent with the Hawai'i state plan, particularly  
13 objectives and policies related to energy, which  
14 include diversification of energy generation,  
15 increasing energy security, and reducing dependence  
16 on imported fuels.

17 **MS. LIM:** Lisa, we also know that there's  
18 going to be residential development. I mean, as long  
19 as we get the necessary entitlements to go forward  
20 on the master plan, this solar farm -- at some point  
21 there's going to be housing creeping on it.

22 Are you aware of there being significant  
23 land use disputes or problems when there's  
24 residential uses in somewhat close proximity to  
25 solar farm uses such as what's proposed here?

1           **MS. KETTLEY:** No. I'm not aware of any  
2 significant issues. You know, solar projects like  
3 this are a passive use of the land, you know, and I  
4 think that they can co-exist side-by-side.

5           **MS. LIM:** Thanks, Lisa. My last question  
6 for you is, really, in your professional opinion,  
7 taking into consideration your expertise, is it  
8 appropriate for the Land Use Commission -- again,  
9 from your professional perspective, is it  
10 appropriate for the Land Use Commission to permit  
11 the solar farm project to go forward as proposed?

12           **MS. KETTLEY:** Yes. I believe so. The  
13 proposed facility is an allowable use in the urban  
14 district. It will help meet the state's renewable  
15 energy goals. And I guess it's also worth pointing  
16 out that the project is consistent with the use that  
17 was previously approved by the commission in 2014,  
18 you know, and we're simply seeking to address the  
19 timeframe for development.

20           **MS. LIM:** Thanks, Lisa.

21           I have no further questions for this  
22 witness. Thank you, chair.

23           **CHAIR SCHEUER:** Thank you very much, Ms.  
24 Lim.

25           City & County, any questions for the



1 witness?

2 **MS. WEAVER:** We have comments on some  
3 conditions that Ms. Kettley worked on, but we'll  
4 save that. They're more language comments, not for  
5 her. Thank you.

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

7 OPSD, Mr. Yee?

8 **MR. YEE:** No questions. Thank you very  
9 much.

10 **CHAIR SCHEUER:** Commissioners, questions  
11 for the witness?

12 Commissioner Wong? No.

13 Commissioners?

14 Seeing none, Ms. Lim, do you want to call  
15 your last?

16 **MS. LIM:** Sure. Thank you, chair. Our last  
17 witness is Mr. Jason Jeremiah.

18 **CHAIR SCHEUER:** Do you swear or affirm the  
19 testimony you will give is the truth?

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

21 **CHAIR SCHEUER:** Okay. Please proceed, Ms.  
22 Lim.

23 **MS. LIM:** Thank you.

24 Hi, Jason. This is, I think, the third or  
25 fourth time we've come through this together. I

1 know the commissioners have seen and heard you speak  
2 before, but would you please refresh them on what  
3 your position is with Kamehameha Schools and what  
4 that position entails? What kind of work do you do  
5 there?

6 **MR. JEREMIAH:** Thanks. Just for the  
7 record, my name is Jason Alapaki Jeremiah. My  
8 business address is 567 South King Street, Honolulu,  
9 Hawai'i. So I work for Kamehameha Schools. I'm the  
10 division director for natural and cultural  
11 ecosystems. The vision and our work consists with  
12 resource management of natural, cultural, and water  
13 resources across KS' land portfolio on five islands.

14 We have a team that works on various  
15 projects, and also includes sustainability as well,  
16 some sustainability projects. So that's a little bit  
17 about the work that we do for KS.

18 **MS. LIM:** Thanks, Jason.

19 **MR. JEREMIAH:** And this commission has  
20 recognized you in the past at least twice, my  
21 recollection, as an expert witness in traditional  
22 and cultural resource management. For -- perhaps for  
23 the record, but every hearing is a new proceeding, I  
24 would ask that the commission and the other parties  
25 reinstate their recognition -- or restate their

1 recognition of Mr. Jeremiah in that capacity.

2 **CHAIR SCHEUER:** Any concerns or  
3 objections, County?

4 **MS. WEAVER:** No objections.

5 **CHAIR SCHEUER:** OPSD?

6 **MR. YEE:** No objection.

7 **CHAIR SCHEUER:** Commissioners? Seeing  
8 none, acknowledged.

9 **MS. LIM:** Thank you. And for the record,  
10 Jason, your written direct testimony is in fact what  
11 we submitted as -- what is it? I believe -- ah,  
12 scratch that. I should have it right in front of me.  
13 Your written direct testimony is what we submitted  
14 as Exhibit 29; is that correct?

15 **MR. JEREMIAH:** Yes. That's correct.

16 **MS. LIM:** Okay. Thank you. Jason, there's  
17 a whole lot of information in your written direct  
18 testimony about the work that's been done on the  
19 property and what sort of resources are located on  
20 that property. I don't want to bring the  
21 commissioners through all of that again, because  
22 they've heard it before, but more of a high-level  
23 perspective. Could you tell the commissioners what  
24 sort of studies have been done on the property that  
25 are relevant to your practice area?

1           **MR. JEREMIAH:** Thanks, Ms. Lim. So for the  
2 project area, particularly the solar farm and the  
3 1,395- acre petition area, we did an archaeological  
4 inventory survey. And it got approved by the state  
5 historic preservation division in 2015.

6           We had a subsequent archaeological site  
7 preservation plan for two main areas kind of near  
8 both of the solar farms we've been talking about  
9 today. And so we're -- as I think Mr. Molinari kind  
10 of explained what has been going on with those  
11 interim protection measures, so we are actively  
12 protecting those sites that were identified for  
13 preservation.

14           There were subsequent, you know, before in  
15 the -- with Gentry, some older studies that were  
16 done in the '80s and the '90s, and so, you know, we  
17 kind of built upon that to then go out and reassess  
18 the petition area more recently in 2015. And that's  
19 kind of the work that we're basing part of our  
20 historic preservation compliance on today.

21           **MS. LIM:** And just to give the  
22 commissioners an understanding, what were the  
23 historic resources that were located on the  
24 property?

25           **MR. JEREMIAH:** Yeah. So when we did our

1 latest archaeological study, you know, we're finding  
2 traditional plantation infrastructure -- road  
3 networks, irrigation ditches, and remnants of the  
4 plantation camps.

5           So, the most prominent features and the  
6 ones that were selected for preservation in  
7 consultation with the state historic preservation  
8 division were portions of plantation irrigation  
9 infrastructure that were within that petition area.

10           It's also good to note that there were no  
11 traditional, like, Hawaiian sites, like heiaus,  
12 burials, those kind of sites, within this area. This  
13 area has been previously impacted by plantation,  
14 agriculture, so a lot of those sites. If they were  
15 to be on the property, no longer exist. But this  
16 area is also an area that there wouldn't be a lot of  
17 these types of sites, just based upon the location  
18 within the ahupua'a.

19           **MS. LIM:** Thanks, Jason. So it's clear  
20 that there was quite a recent archaeological  
21 inventory study done, and there were no what we  
22 would consider really ancient historic sites.  
23 Really, we're talking about turn of the century kind  
24 of plantation irrigation infrastructure.

25           But what can you tell the commissioners

1 about any cultural studies, cultural work that's  
2 been done for this property?

3 **MR. JEREMIAH:** And so, around 2003, Gentry  
4 had commissioned the cultural impact assessment to  
5 be done on the larger former master plan by Gentry.  
6 So that's kind of the foundational work. They're  
7 able to interview a number of community members and  
8 do that assessment.

9 We built upon that previous work with an  
10 ethnohistorical study, which would then go -- do  
11 some additional background research. We interviewed  
12 key kupuna and community members in the area. And  
13 that was around about 2012 -- 2011, 2012. And that  
14 was to really kind of facilitate KS' planning  
15 efforts for the whole ahupua'a of Waiawa and some  
16 additional lands in the Ewa Moku.

17 And through all of that, you know, we  
18 didn't find significant cultural practices, or we  
19 didn't find -- pretty much there was a loss of  
20 connection kind of to Commissioner Chang's comments  
21 and Commissioner Scheuer's comments, I think, about  
22 that connection piece to the lands. So there isn't  
23 any known traditional customary practices that were  
24 identified during those studies.

25 **MS. LIM:** Jason, we know that KS is going

1 to go forward with an environmental assessment and a  
2 master plan and then come back to this commission.  
3 So when KS is doing that, is KS just going to simply  
4 rely on the cultural studies that have been done so  
5 far? Or will there be additional cultural studies  
6 done in connection with that EIS?

7 **MR. JEREMIAH:** So there'll be additional  
8 cultural studies along with the EIS. You know, when  
9 you do a cultural impact assessment, you are  
10 assessing the impact of the proposed project or  
11 development upon the traditional and customary  
12 practices within that area.

13 So to use a CIA that was done, you know,  
14 previously in the '90s for a different project, you  
15 know, it wouldn't take into account the difference  
16 in the projects. So, you know, as a good rule of  
17 thumb and a good practice when doing cultural impact  
18 assessments is to always kind of re-analyze that, go  
19 out and understand that.

20 You know, communities are dynamic.  
21 Practices may change. People may kind of revise some  
22 practices that weren't around when we did the  
23 original cultural studies. So it's an opportunity to  
24 then engage the community and make sure we can do a  
25 good faith effort to identify those practices and

1 then assess them upon the project that is proposed  
2 in the forthcoming EIS.

3 **MS. LIM:** But again, based on the current  
4 solar farm that's underway, the solar farm that  
5 we're hoping the commission will approve now, and  
6 the most recent cultural work, which you said was  
7 done around 2012 and so, has KS any reason to think  
8 that there's anybody accessing the property or  
9 needing to access any particular resources on the  
10 property for cultural purposes?

11 **MR. JEREMIAH:** Yeah. Based upon our  
12 efforts, we don't believe that there are any people  
13 accessing the property for traditional and customary  
14 purposes and practices.

15 **MS. LIM:** Jason, I'm coming to just about  
16 the end of my questions, but I do want to have on  
17 the record. I know you're familiar with the  
18 requirements of the Hawai'i Supreme Court case, the  
19 Ka Pa'akai O Ka'aina versus Land Use Commission  
20 case.

21 Could you just give the commission your  
22 understanding, in brief terms, what kind of analysis  
23 that requires, and then ultimately your conclusions?  
24 Of course, the commission would have to make their  
25 own conclusions, but your conclusions regarding the



1 solar farm and the Ka Pa'akai case.

2 **MR. JEREMIAH:** Yes. So the Ka Pa'akai case  
3 is -- the real general of my understanding is that  
4 when a decision comes before a state agency like the  
5 Land Use Commission, there needs to be an assessment  
6 of potential impacts upon traditional and customary  
7 practices. And that should be utilized in their  
8 decision-making criteria.

9 So there needs to be, you know, an  
10 assessment of whether the action would impact  
11 traditional and customary practices. So that's my  
12 general understanding. And then, yeah, for this  
13 project, I could say that I don't see any impacts to  
14 traditional and customary practices.

15 **MS. LIM:** You know, Jason, with that, in  
16 light of the time, I'm just going to stop and see if  
17 anybody else has questions for you.

18 **CHAIR SCHEUER:** Thank you.

19 Questions for the witness, Ms. Weaver?

20 **MS. WEAVER:** I have no questions. Thank  
21 you.

22 **CHAIR SCHEUER:** OPSD?

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

24 **CHAIR SCHEUER:** Commissioner Chang, I'm  
25 just going to ask you, do you have a lengthy set of

1 questions or -- Oh, you're muted, commissioner.

2 **COMMISSIONER CHANG:** Thank you, Mr. Chair.

3 I do understand that. It may depend upon the  
4 responses to my questions, but I suspect I'll take  
5 longer than five minutes.

6 **CHAIR SCHEUER:** What I'm going to suggest,  
7 and I will wait for the agreement of Ms. Lim, but I  
8 suspect that while it might not go very long, we're  
9 just going to run out of time to question this  
10 witness, and it might be most in your client's  
11 interest that we pick up the questioning of Mr.  
12 Jeremiah on April 14th, when we resume these  
13 proceedings.

14 **MS. LIM:** I'm trying to make eye contact  
15 with Mr. Jeremiah.

16 Do you expect that you will be in town or  
17 just available to come back before the commission?

18 April 14th, Mr. Jeremiah will make himself  
19 available.

20 **CHAIR SCHEUER:** All right. Okay. So with  
21 that, then I'd like to pause -- sorry.

22 Commissioner Chang, did you raise your  
23 hand again, or are you --

24 **COMMISSIONER CHANG:** No. No, no, no.

25 **CHAIR SCHEUER:** Okay. Commissioner

1 Ohigashi?

2 **COMMISSIONER OHIGASHI:** I just have one  
3 question or one observation. I was trying to look  
4 through the exhibits to review the master plan.

5 I'm assuming that Mr. Jeremiah -- I was  
6 going to call him Jason -- Mr. Jeremiah had  
7 participated in the preparation of the master plan,  
8 and I was just wondering if the entire master plan  
9 was submitted to the -- because I couldn't find it  
10 on exhibits. I could only find those portions that  
11 they were referring to.

12 Because they're asking us to remove that  
13 condition that's on the master plan, I think it  
14 might be a good idea to have the --

15 **CHAIR SCHEUER:** Mr. Orodanker?

16 **MR. ORODENKER:** Thank you, Mr. Chair.  
17 We're aware of the confusion with regard to the  
18 website, and we created a link between the previous  
19 submittals and these proceedings, so you should be  
20 able to find the master plan on the website fairly  
21 easily. Please contact us, and we'll direct you to  
22 it.

23 **COMMISSIONER OHIGASHI:** Thank you.

24 **CHAIR SCHEUER:** Okay.

25 Commissioner Chang?

1           **COMMISSIONER CHANG:** Yeah. Mr. Chair, I  
2 just feel bad if Mr. Jeremiah has to come back for  
3 just a few questions. I mean, I don't think I'll  
4 take longer than 15 minutes at the very most.

5           **CHAIR SCHEUER:** Yeah, but we have a hard  
6 stop right now in the next three minutes.

7           **COMMISSIONER CHANG:** Okay. All right.  
8 Thought I would try to help.

9           **CHAIR SCHEUER:** Thank you. I feel bad,  
10 too, but I also will have questions for Mr.  
11 Jeremiah, and there might be other commissioners  
12 that do as well.

13           So, Commissioner Wong?

14           **COMMISSIONER WONG:** Chair, just for --  
15 just to make it possible for the next meeting or  
16 next hearing before we -- if possible, can I get a  
17 Gantt chart of the timeline for all, everything  
18 that's on this petition? Not only the project, but  
19 also the affordable housing project, if it can be  
20 all in one, you know, sheet? If possible.

21           **MS. LIM:** May I respond to that?

22           **CHAIR SCHEUER:** Please, Ms. Lim.

23           **MS. LIM:** You know, the master plan  
24 submittal that was presented to you and was filed  
25 with the commission October 2019 does have -- it's

1 not a Gantt -- well, it actually is a Gantt chart.

2           You're not going to be able to see it  
3 here, but this is what you all have already  
4 reviewed, and that's -- in the master plan  
5 submittal, there are several pages. And so that was,  
6 obviously --

7           When we came before you in 2019 and 2020,  
8 we told you we will be coming back for a refresh on  
9 this other solar farm. And in fact, when you look at  
10 that Gantt chart that was in the master plan  
11 submittal, it does identify these areas for solar  
12 farm development in the timeframes exactly as we're  
13 presenting to you today.

14           **CHAIR SCHEUER:** So I guess if I'm going to  
15 interject, Ms. Lim, the commissioner and previous  
16 commissioners in their comments have expressed some  
17 challenge in understanding exactly what you're  
18 presenting, so you can use that information from the  
19 commissioners and those comments as you wish before  
20 the next hearing.

21           But we're inviting any further or  
22 additional ways in which to convey the information  
23 to us that will help to understand the good points  
24 you are making. Is that helpful?

25           **MS. LIM:** Very much. Thank you.

1           **CHAIR SCHEUER:** With that said, the next  
2 meeting will be on April 14th at the airport  
3 conference room.

4           We will -- it will be a hybrid meeting. It  
5 will be our first hybrid meeting. The parties are  
6 encouraged to attend in person, if at all possible.  
7 If they do not intend to do so, they should inform  
8 the staff, and they'll be instructed on how to  
9 participate remotely.

10           Since we will be holding the meeting at a  
11 location, I would like to ask the staff to make  
12 provisions to have a working lunch so we can make  
13 our time most efficient.

14           Commissioner Aczon?

15           **COMMISSIONER ACZON:** Thank you, chair.  
16 Unfortunately, I will be out of town.

17           **CHAIR SCHEUER:** All right. Thank you,  
18 commissioner.

19           **COMMISSIONER OHIGASHI:** Jonathan, you said  
20 the 13th or --

21           **CHAIR SCHEUER:** The 14th, one-four, April  
22 one- four.

23           **COMMISSIONER OHIGASHI:** That's Thursday.

24           **CHAIR SCHEUER:** If you say so. I don't  
25 have a calendar in front of me.

1                   **COMMISSIONER OHIGASHI:** I have it listed  
2 as the 13th, that's why.

3                   **MR. ORODENKER:** That's correct.

4                   I'm sorry, Mr. Chair, if I may.

5                   That's correct, Commissioner Ohigashi. We  
6 originally were planning on continuing this on the  
7 13th, but we've been advised that we won't be able  
8 to get quorum on the 13th, so we were utilizing the  
9 open date on the 14th.

10                  **CHAIR SCHEUER:** Okay. Thank you,  
11 Commissioner Ohigashi.

12                  Commissioner Cabral?

13                  **COMMISSIONER CABRAL:** So we are not  
14 meeting on the 13th, then? We're only going to meet  
15 on the 14th?

16                  **MR. ORODENKER:** That is correct.

17                  **COMMISSIONER CABRAL:** Thank you.

18                  **CHAIR SCHEUER:** Any questions from any of  
19 the parties?

20                  I'd like to thank all the parties and the  
21 witnesses for their participation today. And I  
22 declare this meeting adjourned.

23                  **(Meeting adjourned at 3:01 p.m.)**

24

25

1 CERTIFICATE

2  
3 I, Davilyn Payne, do hereby certify that the  
4 proceeding named herein was professionally transcribed on  
5 the date set forth in the certificate herein; that I  
6 transcribed all testimony adduced and other oral  
7 proceedings had in the foregoing matter; and that the  
8 foregoing transcript pages constitute a full, true, and  
9 correct record of such testimony adduced and oral  
10 proceeding had and of the whole thereof.

11  
12 IN WITNESS HEREOF, I have hereunto set my hand this  
13 11th day of April, 2022.

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20 Davilyn Payne  
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