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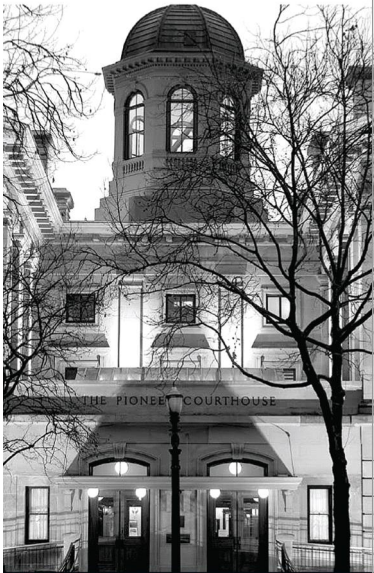
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STATE OF HAWAII

LAND USE COMMISSION

Hearing held on December 23, 2021
Commencing at 9:00 a.m.

Held via Zoom by Interactive Conference Technology

- VI. **CALL TO ORDER**
- VII. **CONTINUED HEARING AND ACTION (IF NECESSARY)
DR21-73 HONOIPU HIWAY, LLC (Hawaii)**
- VIII. **ACTION-DR21-76 PETITION OF KEKAHA AGRICULTURE
ASSOCIATION (Kauai)**
To Consider Petition for Declaratory Order
to designate approximately 12,123 acres at
Kekaha, Kauai; 4-1-2-002:001 por.IAL
- IX. **ADJOURNMENT**



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BEFORE :

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APPEARANCES BY VIDEOCONFERENCE :

COMMISSIONERS PRESENT :

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

COMMISSIONERS EXCUSED :

- Edmund Aczon
- Gary Okuda

STAFF PRESENT BY VIDEOCONFERENCE :

- Daniel Orodener, Executive Officer
- Linda Chow, Deputy Attorney General
- Scott Derrickson, Chief Planner
- Riley Hakoda, Staff Planner
- Natasha Quinones, Program Specialist/Chief Clerk

1 Hearing held on December 23, 2021

2 Commencing at 9:00 a.m.

3 Held via Zoom by Interactive Conference Technology

4

5 **COMMISSIONER SCHEUER:** Aloha mai kakou.

6 Good morning. This is the December 23rd Land Use
7 Commission meeting. This is being held using
8 interactive conferencing technology linking
9 videoconference participants and other interested
10 individuals of the public via the Zoom Internet
11 conferencing program in order to comply with state
12 and county official operational directives during
13 the ongoing COVID-19 pandemic. Members of the public
14 are able to view the meeting via the Zoom webinar
15 platform.

16 For meeting participants, I'd like to
17 stress for you the importance of speaking slowly,
18 clearly, and directly into your microphone. Before
19 speaking, it is helpful if you state your name for
20 the record to identify yourself.

21 Also, please be aware that this meeting is
22 being digitally recorded. Your continued
23 participation is your implied consent to be part of
24 the public record for this event. If you do not wish
25 to be part of the public record, you should exit the

1 meeting now.

2 As we now know, the Zoom conferencing
3 technology allows all the parties and each
4 participating commissioner individual remote access
5 to the meeting via our own personal digital devices.
6 Because of that, and often due to matters entirely
7 outside of our control, occasional disruptions to
8 connectivity may occur. If this happens, please let
9 us know and please be patient as we try to restore
10 audiovisual signals to be able to conduct business
11 during the pandemic.

12 For members of the public who wish to
13 testify during the public witness portion of this
14 meeting, when it's that time, I will ask you to use
15 the Raise Your Hand function in the Zoom software.
16 You can do this by pressing the Raise Hand button
17 or, if you happen to be calling in from a telephone,
18 by pressing the key sequence *9. You also will need
19 to press the key sequence *6 to unmute. And if
20 you're via the Zoom software, there's different
21 controls.

22 We will take breaks from time to time,
23 approximately 10 minutes every hour.

24 My name is Jonathan Likeke Scheuer, and I
25 have the distinct pleasure and honor to be serving

1 as the Land Use Commission chair, and I reside on
2 the island of O'ahu. We currently have eight seated
3 commissioners of a possible nine, along with me,
4 Commissioners Chang, Okuda, our Executive Officer
5 Daniel Orodener, our Chief Planner Scott
6 Derrickson, our Staff Planner Riley Hakoda, our
7 Chief Clerk Natasha Quinones, and our Deputy
8 Attorney General Linda Chow, all are on the island
9 of O'ahu. Commissioner Nancy Cabral is on Hawai'i
10 Island, Commissioner Lee Ohigashi is on Maui, and
11 Commissioner Dan Giovanni is on the island of
12 Kaua'i.

13 Court reporting transcriptions are being
14 done from the Zoom recording, so that is another
15 reason why it's important to speak slowly,
16 distinctly, and directly into your microphone.

17 I will note that Commissioners Arnold Wong
18 and Edward Aczon are excused from today's meeting.

19 Our agenda item for today is an action for
20 Docket No. DR21-76, Kekaha Agriculture Association
21 Kaua'i to consider a petition for declaratory order
22 to designate approximately 12,123 acres of Kekaha
23 Kaua'i Tax Map Key 4-1-2-002:001, a portion thereof,
24 as Important Agricultural Lands.

25 Will the parties please identify

1 themselves for the record, beginning with the
2 petitioner, followed by the county, and Office of
3 Planning and Sustainable Development?

4 Good morning, chair, commissioners, and
5 staff. My name is Doug Codiga, outside counsel for
6 the Kekaha Agriculture Association, petitioner in
7 this matter. With me here today is Tom Schnell of
8 PBR Hawai'i, our consultant, and also available to
9 answer questions as needed is Mr. Joshua Uyehara,
10 who is the manager of Hartung Brothers Hawai'i, one
11 of the members of the co-op, and also the president
12 of the board of directors.

13 **COMMISSIONER SCHEUER:** Thank you.

14 Kaua'i County?

15 **MS. BARZILAI:** Good morning, chair,
16 commissioners, and staff. This is Laura Barzilai,
17 deputy county attorney representing the Planning
18 Department of the County of Kaua'i. With me is Marie
19 Williams, manager of our long-range division of our
20 Department of Planning. I don't think she's been
21 promoted as a panelist, but she is available. Thank
22 you very much.

23 **COMMISSIONER SCHEUER:** I will promote her
24 right now.

25 **MS. BARZILAI:** Thank you, chair.

1 **COMMISSIONER SCHEUER:** OPSD?

2 **MS. KATO:** Alison Kato, deputy attorney
3 general for the Office of Planning and Sustainable
4 Development. Also here with me are Lorene Maki and
5 Mary Alice Evans from the Office of Planning and
6 Sustainable Development. Thank you.

7 **COMMISSIONER SCHEUER:** Thank you.

8 Now let me update the record. On December
9 2nd, the commission received a Petition for
10 Declaratory Order to designate Important
11 Agricultural Lands of verification, Exhibits A
12 through D, a certificate of service, and a filing
13 fee of \$1,000.

14 On December 6, 2021, the commission
15 received the Agribusiness Development Corporation's
16 testimony in reference to the KAA IAL petition.

17 On December 13th, the Land Use Commission
18 mailed a meeting agenda for the December 23rd, 2021,
19 meetings to the parties and to our statewide and
20 Kaua'i county mailing lists.

21 On December 15th, OPSD filed its response
22 to the petition. On December 16th, the County of
23 Kaua'i filed its response to the petition. Also, on
24 December 16th, the commission received the
25 Department of Agriculture's comments. And on

1 December 17th, the commission received the
2 Agribusiness Development Corporation's supplemental
3 testimony with additional maps for reference.

4 Also on the 17th, OPSD filed supplemental
5 comments and certificate of service. In addition,
6 public testimony was received from Grant Kunishima
7 on behalf of Sunrise Capital and Kaua'i Shrimp.

8 And last night -- and this will be posted
9 to the website -- at approximately 12 a.m., as the
10 chair I was sent testimony from the Department of
11 Hawaiian Homelands by its chairman, William Aila,
12 seeking deferral of this matter, or in the absence
13 of a deferral, a contested case. That testimony will
14 be posted to the website. I also note Chairman Aila
15 is an attendee in this room, so he will perhaps be
16 giving oral testimony as well.

17 I'm going to pause now and ask for any
18 disclosures at this time, and I'm going to go first.
19 I was going to disclose this anyway. I work as a
20 consultant for the Department of Hawaiian Homelands
21 on implementation of their water policy plan. I have
22 actually been involved in certain matters in an
23 advisory capacity in this area as a number of
24 parties, which includes the Agribusiness Development
25 Corporation and DHHL, seek to implement what is

1 called the Waimea River Settlement, which was agreed
2 to by all the parties a number of years ago.

3 I believe I can be fair and impartial on
4 this matter, so I would like to ask the parties if
5 there are any objections to my continued
6 participation. That said, I will also note for you
7 that if there is an objection to my continued
8 participation, I would hand over the duties, at
9 least temporarily, to the vice chair, Dan Giovanni,
10 to consider any objections and ruling upon them.

11 If it is ruled that I cannot participate
12 in this matter, that would actually end today's
13 hearing, because for an Important Agricultural Lands
14 matter, you need six commissioners to pass the
15 matter. So we would immediately defer action today.

16 Mr. Codiga, any objections?

17 **MR. CODIGA:** Chair, thank you for the
18 disclosure and for the information. Before I answer
19 that, may I just quickly request clarification as to
20 whether there would be an opportunity to caucus with
21 my client on that disclosure? If not, that's
22 understandable. I believe that there is no
23 objection; however, I am unable to confirm that with
24 my client, based on the information you just
25 provided.

1 **COMMISSIONER SCHEUER:** Do you want a two-
2 minute recess?

3 **MR. CODIGA:** I would like -- yes, if I
4 may.

5 **COMMISSIONER SCHEUER:** Okay. We'll give
6 you five. It's 9:09. We will reconvene at -- two
7 minutes is fine?

8 **MR. CODIGA:** Yes.

9 **COMMISSIONER SCHEUER:** It's 9:09. We'll
10 reconvene at 9:11.

11 **MR. CODIGA:** Thank you.

12 **(Recess taken from 9:09 a.m. - 9:11 a.m.)**

13 **COMMISSIONER SCHEUER:** It's 9:11. We're
14 back on the record.

15 Mr. Codiga?

16 **MR. CODIGA:** Thank you, chair, for the
17 opportunity to caucus with my client. We appreciate
18 that and apologize for any inconvenience. We have no
19 objection for moving forward.

20 **COMMISSIONER SCHEUER:** Okay. Thank you
21 very much.

22 Kaua'i County?

23 **MS. BARZILAI:** Chair, my client and I have
24 no objection.

25 **COMMISSIONER SCHEUER:** Okay. Thank you.

1 OPSD?

2 **MS. KATO:** No objection. Thank you.

3 **COMMISSIONER SCHEUER:** Okay. Thank you.

4 Commissioners, are there any other
5 disclosures that people wish to make?

6 Commissioner Okuda?

7 **COMMISSIONER OKUDA:** Thank you, Mr. Chair.

8 To the extent necessary, I'd like to disclose the
9 fact that I worked with Patricia Teruya, one of the
10 commissioners on the Hawaiian Homes Commission, with
11 respect to a vaccination clinic in Nanakuli.

12 Commissioner David Ka'apu I know for decades from
13 the practice of law, although I have not spoken to
14 him since the time that he has been appointed to the
15 commission.

16 I have spoken with Randy Awo, another
17 commissioner, with respect to some issues regarding
18 long-range planning, but since the time he was
19 appointed to the commission, I don't really recall
20 speaking to him about any pending matters. So I make
21 those disclosures.

22 **COMMISSIONER SCHEUER:** Thank you,
23 Commissioner Okuda.

24 Any objections to Commissioner Okuda's
25 continued participation, Mr. Codiga?

1 **MR. CODIGA:** No objections.

2 **COMMISSIONER SCHEUER:** Ms. Barzilai?

3 **MS. BARZILAI:** No objection, chair.

4 **COMMISSIONER SCHEUER:** Ms. Kato?

5 **MS. KATO:** No objections.

6 **COMMISSIONER SCHEUER:** Thank you.

7 Commissioners, anything further? Okay. Now

8 let me go over --

9 Oh, Commissioner Giovanni?

10 **COMMISSIONER GIOVANNI:** Let me get my
11 video on here. Just a point of clarification, chair.

12 Mr. Uyehara was introduced as a member of the co-op.

13 Could you clarify, please, the organization in more
14 detail, who he represents?

15 **COMMISSIONER SCHEUER:** Mr. Codiga?

16 **MR. CODIGA:** Yes. Thank you, Commissioner
17 Giovanni. The petitioner is an agricultural
18 cooperative formed pursuant to Chapter 421 Hawai'i
19 Revised Statutes. It is led by -- or governed by a
20 board of directors. The board of directors, of
21 course, has a president, and Mr. Uyehara is
22 president of the Kekaha Agriculture Association
23 board of directors, and he is participating today in
24 that capacity. And that is the -- that is because
25 the petitioner is the KAA.

1 The KAA, of course, is a co-op comprised
2 of members. One of the members is Hartung Brothers,
3 and Mr. Uyehara is the manager of Hartung Brothers.

4 **COMMISSIONER GIOVANNI:** Very good. Thank
5 you for that clarification.

6 **MR. CODIGA:** Absolutely.

7 **COMMISSIONER SCHEUER:** Thank you,
8 Commissioner Giovanni.

9 Thank you, Mr. Codiga.

10 Anything further, commissioners?

11 Let me go over now procedures for this
12 docket. First, I will give the opportunity for
13 petitioner to comment on their agreement or
14 disagreement with the commission's policy governing
15 reimbursement of hearing expenses.

16 Next, I will -- before proceeding further
17 on the matter, we will acknowledge any written
18 testimony. I will then ask for a commission's
19 discussion regarding -- and ask the parties to
20 address some concerns over the ability of the
21 petitioner to file this petition -- specifically,
22 whether or not there is a requirement that they need
23 the assent of the Board of prior to us considering
24 this petition.

25 Should those issues be resolved in full to

1 the commission's satisfaction, we'll then proceed to
2 hearing on the full petition.

3 Commissioner Chang?

4 **COMMISSIONER CHANG:** Thank you, Mr. Chair.

5 I would like, as a procedural matter, in light of
6 DHHL's notice -- and I have not read the
7 correspondence or what they filed -- if they are
8 requesting a contested case hearing, I am concerned
9 about further procedure, us conducting a hearing on
10 this matter without addressing the contested case,
11 if that is a request.

12 So I'd like at some point in time for us
13 to address that.

14 **COMMISSIONER SCHEUER:** So, thank you,
15 Commissioner Chang.

16 So, Mr. Orodenger, obviously, things have
17 been moving around a little bit. If we allow for
18 public testimony prior to taking up any of the
19 further deliberation about the timing of this case,
20 would that -- would we be able to address those
21 concerns?

22 **MR. ORODENKER:** I do not have. I will
23 defer to counsel on that.

24 **COMMISSIONER SCHEUER:** Ms. Chow?

25 **MS. CHOW:** Yes. Maybe I can better address

1 that. So I'm looking at their request right now, and
2 it's made as a conditional request. So it's saying
3 if the matter is not deferred, then they want to
4 contest the case.

5 So I think the issue of whether or not the
6 matter is going to be deferred can be taken up
7 first. And if it is -- if the decision that is made
8 that it will not be deferred, then I think we have
9 to deal with the question of the contested case and
10 whether or not a hearing can go forward without
11 dealing with the contested case first.

12 **COMMISSIONER SCHEUER:** And if I may, Ms.
13 Chow, I believe there's also a question that would
14 arise on whether or not it is possible to be granted
15 a contested case on a declaratory ruling. Is that
16 correct?

17 **MS. CHOW:** Correct. But again, if the
18 decision is made to defer, then we have more time to
19 look at that issue later.

20 **COMMISSIONER SCHEUER:** Okay.

21 Commissioner Chang?

22 **COMMISSIONER CHANG:** I am fine with that.
23 I will defer to our counsel's advice on that.

24 **COMMISSIONER SCHEUER:** Okay.

25 **COMMISSIONER CHANG:** So thank you.

1 **COMMISSIONER SCHEUER:** So my preference
2 is, seeing a number of people in the waiting room,
3 if people are here to testify, my inclination -- I
4 guess this is a question for counsel, for our
5 counsel.

6 If people are here to testify, are we
7 harming the process in any way by allowing people to
8 testify prior to taking up the issue of deferral?

9 **MS. CHOW:** I think if you ask people to
10 limit their testimony to the issue of deferral
11 first, then, no. You know, obviously, if that's the
12 issue that's going to be taken up, you can obviously
13 get their testimony on that. As far as testimony on
14 the petition itself, I think it would be better if
15 we could hold off on accepting that testimony until
16 we get to the issue of whether or not you can even
17 hear or proceed with that IAL petition in substance
18 --

19 **COMMISSIONER SCHEUER:** Okay.

20 **MS. CHOW:** -- before you deal with the
21 contested case request.

22 **COMMISSIONER SCHEUER:** Okay.

23 **MR. ORODENKER:** Mr. Chair?

24 **COMMISSIONER SCHEUER:** Mr. Orodenger?

25 **MR. ORODENKER:** Assuming for the moment

1 that we are addressing an IAL petition with regard
2 to public maps, Section 205-44.5, just for
3 everyone's understanding, says that section (b) "The
4 designation of important agricultural lands pursuant
5 to this section shall not be subject to the district
6 boundary amendment procedures of section 205-3.1 or
7 205-4 or declaratory order procedures of section
8 205-45."

9 So as -- basically, that section is
10 consistent with the rest of the IAL statute
11 currently unclear, but it appears that the rules
12 regarding declaratory rulings may not be applicable
13 in this case. So I don't know where that lands us,
14 though.

15 **COMMISSIONER SCHEUER:** Okay. We're still
16 in the discussion of procedures for today. So my
17 preference is in the interest of -- if people show
18 up from the public and they want to testify, unless
19 it's prejudicial to the proceedings, I like to
20 provide people the opportunity to testify. And I
21 will give actual parties the chance to comment on
22 this just as I would normally when I lay out the
23 procedures for today.

24 So my proposed procedures are this. I'm
25 going to acknowledge written testimony. I'm going to

1 allow for oral testimony from any members of the
2 public, but I would like it to be limited to the
3 issue of potentially deferring this item because of
4 an ongoing question, whether or not KAA is able to
5 properly bring this matter before us prior to having
6 an action and assenting to this from the Board of
7 Land and Natural Resources.

8 After the closure of that portion of
9 public testimony, the commissioners will allow --
10 the chair will allow for each of the parties to
11 comment on this, the commissioners to ask questions.
12 We will then make a determination on whether or not
13 to proceed or not.

14 I will then -- if we choose to proceed and
15 not defer, I will then open up testimony again to
16 have people testify on the substance of the proposed
17 IAL. If we propose to defer, people will get an
18 opportunity if and when the petition comes before us
19 again.

20 I'm going to check with the parties. Is
21 the procedure clear, and do you have any concerns
22 with the procedure? Starting with Mr. Codiga.

23 **MR. CODIGA:** No objections, chair. That's
24 clear.

25 **COMMISSIONER SCHEUER:** Thank you.

1 **MS. BARZILAI:** It's clear, chair.

2 **COMMISSIONER SCHEUER:** Okay.

3 **MS. KATO:** Same.

4 **COMMISSIONER SCHEUER:** Okay.

5 So we have -- that's our procedures for
6 today. The only thing I left out in that last thing
7 is that I need you to go over whether or not you
8 assent to the reimbursement of hearing expenses as
9 explained in our administrative rules. Mr. Codiga?

10 **MR. CODIGA:** No objection.

11 **COMMISSIONER SCHEUER:** Okay. Thank you.

12 So what we're next going to do is we're
13 going to offer the opportunity for public testimony
14 on this matter, but I'm asking all members of the
15 public who wish to testify to limit their testimony
16 solely to the matter of whether or not this
17 petition's consideration should be deferred today or
18 not.

19 If you are here to testify, please either
20 use the Raise Your Hand function in the Zoom
21 software, or if you are calling in by phone, and we
22 have one phone-in caller, use the key sequence *9 to
23 raise your hand.

24 I see one hand raised at this point. Beth
25 Tokioka. I will admit people to be panelists. I will

1 swear them in, ask them to identify themselves by
2 name and address for the record, and then give them
3 the opportunity to testify.

4 So Beth Tokioka, followed by William Aila.
5 Okay.

6 You should now be able to enable your
7 audio and video, Beth. There you are. Okay.

8 **MS. TOKIOKA:** Good morning.

9 **COMMISSIONER SCHEUER:** Good morning. So
10 I'm going to swear you in and ask you to identify
11 yourself, and then proceed with your testimony. Do
12 you swear or affirm the testimony you're about to
13 give is the truth?

14 **MS. TOKIOKA:** Yes. I do.

15 **COMMISSIONER SCHEUER:** Okay. Thank you. So
16 state your name and address and affiliation for the
17 record, and then give your testimony, please.

18 **MS. TOKIOKA:** Aloha. My name is Beth
19 Tokioka. I am with Kaua'i Island Utility
20 Cooperative. Our address is 4463 Pahee Street, Suite
21 1, in Lihue. Appreciate the opportunity to address
22 the matter of deferral.

23 We at KIUC do support deferral of the
24 matter. We have some concerns about the petition as
25 it is presented. Unfortunately, we only learned

1 about the petition yesterday, so deferral would
2 allow us time to better address the concerns and for
3 your consideration at a later date. So thank you
4 very much.

5 **COMMISSIONER SCHEUER:** Okay. Let me see if
6 there's any questions from the parties or the
7 commissioners for you.

8 Mr. Codiga?

9 **MR. CODIGA:** Thank you, chair. We have no
10 questions.

11 **COMMISSIONER SCHEUER:** Kaua'i County?

12 **MS. BARZILAI:** No questions, chair.

13 **COMMISSIONER SCHEUER:** OPSD?

14 **MS. KATO:** No questions. Thank you.

15 **COMMISSIONER SCHEUER:** Commissioners?

16 Commissioner Okuda?

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

19 May I ask how did you find out about this
20 petition and if you had any suggestions on how --
21 and maybe communication might be better in the
22 future -- whether or not such procedures are really
23 required by the rules or the statute?

24 **MS. TOKIOKA:** We just -- someone alerted
25 someone our staff, our senior staff, that this item

1 was up on the agenda. We have not -- anticipate --
2 we are concerned about the agenda item as it relates
3 to the West Kaua'i Energy Project, which we're
4 currently developing.

5 And there are a number of agencies that we
6 monitor regularly for agendas when we anticipate
7 items might be coming up related to the project. The
8 LUC is not something that has been recently on our
9 radar screen, so we weren't really monitoring. But I
10 didn't take the call, but someone was alerted that
11 the agenda item was there and could potentially have
12 an impact on the project, so.

13 **COMMISSIONER OKUDA:** Okay. Thank you.

14 **MS. TOKIOKA:** I'll be monitoring the
15 agendas more fully in the future.

16 **COMMISSIONER OKUDA:** No, no, no. No
17 apologies are necessary, and thank you very much for
18 participating in the process. I believe more
19 participation is usually better than less
20 participation, so thank you very much.

21 No further questions, Mr. Chair. Thank
22 you.

23 **COMMISSIONER SCHEUER:** Thank you,
24 Commissioner Okuda.

25 Commissioner Ohigashi?

1 **COMMISSIONER OHIGASHI:** I'm sure that it
2 might be too early for you to determine this, but
3 are you also going to consider joining in any
4 intervention in this matter, if it is allowed?

5 **MS. TOKIOKA:** We have not discussed that,
6 so I'm unable to answer that question at this time.
7 But a deferral, I think, would address our concern
8 to be able to more fully prepare and share with you
9 our concerns about the submittal as presented.

10 **COMMISSIONER OHIGASHI:** You mentioned that
11 there was some project that was adjacent or close to
12 this area. Do you have any kind of interest
13 adjoining the project area or in the project area or
14 in the area to be designated? Is there some kind of
15 interest in your company, I guess?

16 **MS. TOKIOKA:** Yes. There is. I'm not sure
17 if it's proper to get into the content, chair.

18 **COMMISSIONER SCHEUER:** I think if you
19 would give that just enough context.

20 **MS. TOKIOKA:** Okay. Sure.

21 **COMMISSIONER SCHEUER:** The broad basis of
22 why you're even concerned, why you're here and
23 concerned to seek a deferral.

24 **MS. TOKIOKA:** Sure. Very briefly, the West
25 Kaua'i Energy Project is a renewable project that we

1 are developing on the west side of Kaua'i. It's a
2 pump storage hydro project and encompasses
3 infrastructure on state lands, including ADC lands,
4 including the Mana reservoir, and would require us
5 to construct some facilities at the reservoir, also
6 rehabilitate the reservoir.

7 And we just want to make sure that these
8 facilities that are -- and it's a very small amount
9 of acreage, but it is primarily for energy
10 production, although the project will support, with
11 the rehabilitation of the reservoir, will support
12 the agricultural purpose of KAA.

13 But there are some facilities that are
14 needed for energy production that are not -- don't
15 have a direct nexus to agriculture that would need
16 to be constructed on these lands. Again, it's a very
17 small, small acreage, but we would ask that that
18 acreage be carved out or acknowledged in whatever
19 decision is made, that those could be constructed on
20 these lands and that the project could go forward.

21 **COMMISSIONER OHIGASHI:** If there is a
22 deferral, I look forward to reviewing what's
23 submitted on that. Thank you.

24 **MS. TOKIOKA:** Thank you.

25 **COMMISSIONER SCHEUER:** Thank you,

1 Commissioner Ohigashi.

2 Commissioners, further questions for the
3 witness?

4 Seeing none, thank you very much, Ms.
5 Tokioka.

6 **MS. TOKIOKA:** Thank you.

7 **COMMISSIONER SCHEUER:** I'm going to move
8 you back to being an attendee, and I'm going to
9 promote William Aila.

10 And anybody else who wishes to testify
11 should use your Raise Your Hand function to indicate
12 your desire to testify. If you are calling in by
13 phone, use the key sequence *9.

14 Mr. Aila, if you can enable your audio and
15 video? There we go.

16 **MR. AILA:** Thank you, chair. And I
17 apologize, and I'll answer some of the questions up
18 front.

19 **COMMISSIONER SCHEUER:** Mr. Aila, I need to
20 swear you in.

21 **MR. AILA:** Oh. Sorry.

22 **COMMISSIONER SCHEUER:** Do you swear or
23 affirm the testimony you're about to give is the
24 truth?

25 **MR. AILA:** Yes.

1 **COMMISSIONER SCHEUER:** Okay. And if you
2 could just state your name for the record and then
3 proceed.

4 **MR. AILA:** Sure. William J. Aila, Jr.,
5 chairman of the Hawaiian Homes Commission, director
6 of the Department of Hawaiian Home Lands. Our
7 address is 915420 Kapolei Parkway, Kapolei, Hawai'i
8 96707.

9 **COMMISSIONER SCHEUER:** Thank you very
10 much. Please proceed.

11 **MR. AILA:** Okay. So I will just apologize
12 to you and apologize to both the petitioner and the
13 Land Use Commission for the last-minute notice. I
14 learned of this agenda item on the LUC docket late
15 yesterday evening from a consultant with KIUC and
16 support the request and request ourselves a
17 deferral.

18 It has no reflection on, I think, KAA's
19 request for the Important Agricultural Lands.
20 However, until we understand how this is going to
21 impact KIUC's energy project, and closely related to
22 that, our settlement, the Department of Hawaiian
23 Home Lands' settlement project going forward, where
24 we would assign subsistence agricultural lots in
25 West Kaua'i based upon the implementation of the

1 energy project, we just need more time to understand
2 how this action could impact that process moving
3 forward.

4 **COMMISSIONER SCHEUER:** Are there any
5 questions for the witness?

6 Mr. Codiga?

7 **MR. CODIGA:** Thank you, chair. We have no
8 questions for this witness at this time.

9 **COMMISSIONER SCHEUER:** Okay.
10 The county, Ms. Barzilai?

11 **MS. BARZILAI:** No questions, chair. Thank
12 you.

13 **COMMISSIONER SCHEUER:** Ms. Kato?

14 **MS. KATO:** No questions. Thank you.

15 **COMMISSIONER SCHEUER:** Commissioners?
16 Questions for Mr. Aila, Chair Aila?

17 Seeing none, I suppose, thank you very
18 much for your testimony.

19 **MR. AILA:** Thank you, chair. And merry
20 Christmas and happy holidays to you all. Mahalo.

21 **COMMISSIONER SCHEUER:** Thank you. I'll
22 move you back to being an attendee.

23 **MR. AILA:** Thank you.

24 **COMMISSIONER SCHEUER:** Okay. Last call for
25 any public testimony regarding just the narrow issue

1 of potential deferral of this item. If anybody who
2 is attending this meeting wishes to testify, either
3 use the Raise Your Hand function or *9.

4 Seeing none, we are now going to proceed
5 with a consideration on a sort of determinative
6 matter on how much further we can go today.

7 So we need to determine whether or not the
8 petitioner has the proper authority to file this
9 petition. This matter is preliminary and dispositive
10 of the petition. As of today, the LUC staff does not
11 believe it has received a complete explanation and
12 supporting evidence of KAA's authorization to file
13 the petition, who had to grant that authority, and
14 whether or not the proper process was adhered to.

15 As of today, we have received documents
16 indicating the counsel for the petitioner has the
17 authority to file a petition with the commission on
18 behalf of KAA, and we've received minutes of a
19 meeting from the Agribusiness Development
20 Corporation from January 3rd of 2018, along with
21 submissions from that meeting and a map purporting
22 to be BLNR Executive Order 4007.

23 We have also received testimony from the
24 Office of Planning and Sustainable Development that
25 the lands subject to the petition are not "public

1 lands". However, the commission does not believe
2 that we have a complete explanation of this issue.

3 So I'd like each of the parties to respond
4 to the following two issues. First, does the ADC
5 have the authority to grant KAA the ability to file
6 this petition and permanently place the land IAL
7 designation on state lands?

8 And I'd like you specifically to address
9 how the land in the subject petition is held by the
10 ADC and whether or not the manner in which the lands
11 are held are sufficient to grant ADC the ability to
12 authorize the petition or whether or not additional
13 authorization from the Bureau of Land and Natural
14 Resources is necessary.

15 And the second question for the parties is
16 whether or not under 205-44.5 Hawai'i Revised
17 Statutes, state lands may be subject to IAL
18 designation by individual lessees or whether or
19 state lands must be designated in a comprehensive
20 manner.

21 We'll do them in order. So I'll ask,
22 first, each of the parties to address the issue of
23 authority. And then if we resolve the issue of
24 authority, ask for your position on 205-44.5.

25 I'm going to allow the commissioners to

1 ask questions of each of the parties during the
2 course of the discussion.

3 Petitioner?

4 Commissioner Giovanni? Excuse me.

5 **COMMISSIONER GIOVANNI:** Yeah. Just a
6 clarification. So if we get past both of those
7 questions, and the conclusion is that we could
8 proceed, we'll take up the question of deferral or
9 not at that time?

10 **COMMISSIONER SCHEUER:** This would -- this
11 is actually the substance. Yeah. Thank you for that
12 question, commissioner.

13 Either of these two matters could
14 potentially lead to deferral. If we conclude, after
15 hearing from the parties, that we believe that
16 assent from the Department of -- Board of Land and
17 Natural Resources is required, or perhaps assent was
18 not fully or properly given from ADC to KAA, that
19 would lead to a deferral of the petition until we
20 were sure that those matters were received.

21 In addition, if we decided that we
22 believed our interpretation of the statute or an
23 interpretation of the statute that comprehensive
24 designation of state lands is required rather than
25 lessee by lessee, that would also lead to deferral.

1 What your question leads me to understand
2 is that there is an additional third sort of reason
3 for deferral, which is the request from KIUC and
4 DHHL.

5 **COMMISSIONER GIOVANNI:** Correct.

6 **COMMISSIONER SCHEUER:** I think we will
7 then take those up subsequently should we get
8 through the first two.

9 **COMMISSIONER GIOVANNI:** Thank you for that
10 clarification. That's exactly what my question was.

11 **COMMISSIONER SCHEUER:** Okay. Thank you,
12 Commissioner Giovanni.

13 Any other questions for how we're
14 proceeding?

15 If not, Mr. Codiga?

16 **MR. CODIGA:** Thank you, chair. Yes. With
17 regard to the first question concerning ADC's
18 authority to authorize the KAA to file the petition,
19 we believe based on the record as presented before
20 the commission, the answer is, yes, ADC does have
21 that authority.

22 This is something that was reviewed and
23 discussed at some length with ADC over a fairly
24 extended time period, and we believe that that
25 conclusion is supported by, as again, by the record

1 as presented before the commission currently, which
2 specifically includes a staff proposal from ADC
3 staff to the ADC board of directors.

4 The record also includes minutes, and that
5 staff proposal concerned a recommendation by staff
6 to authorize the KAA to go ahead and file the
7 petition to designate the Kekaha ag lands as
8 Important Agricultural Lands. That staff report was
9 acted on by the ADC board.

10 We have copies of minutes that are
11 verified that have been submitted by the agency
12 directly to incorporate them into the record,
13 submission by the agency, meaning ADC, which
14 indicate that ADC did approve KAA to proceed with
15 the petition for IAL designation.

16 So based on that record and based on
17 analysis of the applicable statutory provisions, we
18 believe that it is -- ADC was correct, and the
19 record does support a determination by this
20 commission that ADC made the right decision in that
21 regard.

22 I should note as well that in anticipation
23 of the discussion of this issue or issues similar to
24 this, we did ask as a courtesy that Mr. James
25 Nakatani as executive director of ADC and Ms. Myra

1 Kaichi as senior executive assistant of ADC would be
2 available to answer questions.

3 I have been unable to confirm or verify
4 that they have been admitted this morning as
5 audience members, but that was the intention. If
6 they have been admitted as audience members, then
7 the commission would have the opportunity, I
8 believe, to elevate them to be panelists to address
9 these questions directly. And I would suggest that
10 may be something the commission wishes to do based
11 on the specific articulation of the question, chair,
12 that you just presented, given as focus.

13 Our intention was to make them available
14 only sort of an as-needed basis, but based on this
15 first question that you have presented, it seems
16 that it might be advisable for them to potentially
17 provide additional clarification, again, if they are
18 available.

19 **COMMISSIONER SCHEUER:** Thank you, Mr.
20 Codiga. Ms. Kaichi has actually logged in twice, so
21 that could be her and Mr. Nakatani separately. I
22 don't know. So they are in the audience. At least,
23 Ms. Kaichi is in the audience, and I'm more than
24 happy to admit them if the commissioners have a
25 question for them.

1 Mr. Okuda?

2 **COMMISSIONER OKUDA:** Thank you very much,
3 Mr. Chair. First, let me make some additional
4 disclosures. A number of years ago, I served on a
5 board somewhat informally -- or, I guess, we were
6 actually formal participants. It was the board
7 called -- of the Nisei Veterans Legacy Foundation.
8 Mr. Nakatani was part of that organization, but I
9 don't believe in the last four years I have
10 communicated with them or been in any board meetings
11 with him. So I'd like to make that disclosure.

12 And during the course of my practice of
13 law, I have dealt with Ms. Kaichi, so I'd like to
14 make those disclosures before I ask Mr. Codiga a
15 number of questions.

16 **COMMISSIONER SCHEUER:** Okay. Thank you for
17 those disclosures.

18 Any objection to Mr. Okuda's continued
19 participation, Mr. Codiga?

20 **MR. CODIGA:** No object.

21 **COMMISSIONER SCHEUER:** Ms. Barzilai?

22 **MS. BARZILAI:** No objection, chair.

23 **COMMISSIONER SCHEUER:** Ms. Kato?

24 **MS. KATO:** No objection.

25 **COMMISSIONER SCHEUER:** Thank you.

1 Please proceed, Commissioner Okuda.

2 **COMMISSIONER OKUDA:** Okay. Thank you.

3 Counsel, if I can just go through just a
4 couple of statutes so that we can place the issue of
5 authority and then maybe look at whether or not
6 there's adequate evidence of authorization here to
7 proceed with this petition.

8 The first part -- and I want to just see
9 if you disagree with this -- is that HRS Section
10 171-3(a) provides that, and I quote, the department,
11 meaning the Department of Land and Natural
12 Resources, shall manage, administer, and exercise
13 control over public lands.

14 Do you agree that that's what the law
15 says?

16 **MR. CODIGA:** Yes.

17 **COMMISSIONER OKUDA:** Okay. And if we look
18 at HRS Section 171-2, which is captioned Definition
19 of Public Lands, that statute starts off by stating,
20 "'Public lands' means all lands or interest therein
21 in the state class as government or crown lands
22 previous to August 15, 1895, or acquired or reserved
23 by the government upon or subsequent to that date by
24 purchase, exchange, escheat, or the exercise of the
25 right of eminent domain or in any other matter." And

1 then there's a semicolon.

2 Do you agree that's a fair statement of
3 the law?

4 **MR. CODIGA:** Of course. Yes.

5 **COMMISSIONER OKUDA:** Okay. But that
6 Section 171-2 also has a list of exceptions to that
7 rule. And under subparagraph 11, one of the
8 exceptions to that rule states that lands that are
9 set aside by the governor to the Agribusiness
10 Development Corporation, lands leased to the
11 Agribusiness Development Corporation by any
12 department or agency of the state, or lands to which
13 the Agribusiness Development Corporation in its
14 corporate capacity holds title.

15 So that's an exception to the definition
16 of public lands that's set forth in HR Section 171-
17 2. Do you agree with that?

18 **MR. CODIGA:** Yes. That's correct. I
19 believe that's subsection 11. Yes.

20 **COMMISSIONER OKUDA:** Yes. Okay. Okay. And
21 so let me ask. Let me ask you this. So if the
22 Agricultural -- I'm sorry, the Agribusiness
23 Development Corporation holds title to this land,
24 how would you describe the Agribusiness Development
25 Corporation's interest in this land?

1 **MR. CODIGA:** That's an excellent question,
2 and it can be a source of some confusion. I
3 appreciate the opportunity to clarify and also would
4 possibly again defer to Ms. Kaichi of ADC.

5 But that said, our understanding, based on
6 the relevant documents which are in the record, the
7 key phrase would be "control and manage", I believe,
8 in Executive Order 4007.

9 So I would -- I believe, again subject to
10 check and confirmation by ADC directly, that it
11 would probably not be correct to characterize ADC's
12 interest as a fee interest necessarily, pursuant to
13 the executive order, but rather ADC has the control
14 and management.

15 I believe the ownership, if you will,
16 resides with state of Hawai'i.

17 **COMMISSIONER OKUDA:** Okay.

18 **COMMISSIONER SCHEUER:** If there's no
19 objections from any of the parties or the
20 commissioners, I'll admit Ms. Kaichi.

21 Seeing none, Ms. Kaichi, would you raise
22 your hand, because there's two of you signed in.
23 Using your Raise Your Hand function. There we go.

24 **COMMISSIONER OKUDA:** Mr. Chair, may I
25 proceed, or would you like me to wait?

1 **COMMISSIONER SCHEUER:** Please proceed.

2 Please proceed.

3 **COMMISSIONER OKUDA:** Thank you very much.

4 Okay. And so now I have a question
5 regarding a document which was received by the Land
6 Use Commission, and it's file-stamped December 17,
7 2021, at 9:38 a.m., and it's on the Agribusiness
8 Development Corporation -- well, that's the top
9 line. It says Minutes of the Board of Director
10 Meeting for January 31, 2018.

11 And if we look at that document, and if we
12 can go to page -- one moment, please -- page 6,
13 okay, first paragraph, it says, and it's a sentence
14 that comes from the bottom of page 5. Let me read
15 the sentence that starts on the bottom of page 5.

16 "The recommendation that the board
17 authorize the KAA to pursue a declaratory order to
18 designate a portion" I'm sorry. That's the wrong
19 section. I'm sorry. Wait one moment, please. I'm
20 sorry. I had it right here.

21 Oh, you know, Mr. Chair, I'm really sorry.

22 **COMMISSIONER SCHEUER:** Okay.

23 **COMMISSIONER OKUDA:** May you defer my
24 question just for a second so that I don't waste
25 everyone's time?

1 **COMMISSIONER SCHEUER:** Sure.

2 **COMMISSIONER OKUDA:** And if you could come
3 back to me a bit later?

4 **COMMISSIONER SCHEUER:** Okay. Well, it's
5 approaching 50 minutes, so does any commissioner
6 have a quick question they want to pose to Mr.
7 Codiga at this time?

8 Seeing none.

9 Commissioner Chang? You're muted.

10 **COMMISSIONER CHANG:** Good morning, Mr.
11 Codiga. I just have a question regarding Section 15-
12 15-121. Well, let me ask you. Under what
13 administrative rule is KAA filing this petition?

14 **MR. CODIGA:** The criteria -- let's see
15 here. I'm thinking the most efficient way to answer
16 that would be the rules that were cited in the
17 petition. And if this is too broad, we can narrow it
18 down, but subsections of Chapter 15-15, subsections
19 98, 99, 120, and 121.

20 **COMMISSIONER CHANG:** Okay.

21 **MR. CODIGA:** And 120, of course, is the
22 eight criteria for the identification of IAL lands.

23 **COMMISSIONER CHANG:** So I guess my
24 question. Are you filing as a farmer or as a
25 landowner?

1 **MR. CODIGA:** That's an excellent question.
2 And we have concluded and positioned this as a
3 petition primarily by a farmer.

4 **COMMISSIONER CHANG:** Okay.

5 **MR. CODIGA:** We acknowledge that the term
6 "landowner" and "farmer" may be subject to
7 interpretation by this commission, and so we would
8 certainly -- if the commission chose to exercise
9 discretion in a manner that concluded that under
10 these particular circumstances, it was appropriate
11 to interpret the term "landowner" to encompass KAA,
12 you know, that's something that the commission -- we
13 would not object to the commission exercising its
14 discretion in that manner.

15 However, we submit that our intention, and
16 we think the clear interpretation, is that this is a
17 farmer application petition. So under 205-45, we're
18 submitting this petition with the KAA as a farmer.
19 That's the approach, if that answers your question.

20 **COMMISSIONER CHANG:** Okay. And that has,
21 because I did have -- when looking at the definition
22 of "landowner", it does require a party with a fee
23 simple interest. So it wasn't very clear in my mind
24 whether it was a farmer or a landowner.

25 So, okay. So it is as a farmer that KAA is

1 submitting this petition. All right. That clarifies
2 for me at least the administrative rule that you're
3 applying.

4 At this time, I don't have any other
5 further question, Mr. Chair. Thank you.

6 **COMMISSIONER SCHEUER:** Thank you.

7 Commissioner Giovanni?

8 **COMMISSIONER GIOVANNI:** Yeah. Following up
9 on Commissioner Chang's inquiry, Mr. Codiga, could
10 you further explain? My reading of your petition and
11 the background for it, KAA is responsible for the
12 management of the infrastructure and, in fact, is
13 not necessarily a farmer. Could you clarify why that
14 -- I'm confused.

15 **MR. CODIGA:** Okay. No, no. So the co-op is
16 an independent legal entity. It's a cooperative form
17 under Chapter 421, as we discussed a little bit
18 earlier. The co-op itself is comprised of farmers,
19 and nothing but farmers. There are five members that
20 are engaged in farming activities.

21 Under Chapter 21, Section 9(b)(1), the co-
22 op is expressly authorized to speak and act on
23 behalf of its members, as you would expect. So
24 although the co-op has a separate legal identity, it
25 is essentially the farmers, and so it was decided

1 that that was that was the appropriate entity to go
2 ahead and file the petition as the farmer because of
3 the -- there's really no -- there's a legal
4 distinction between the entity and members, but for
5 all practice purposes, it's the farmer for purposes
6 of this IAL petition.

7 **COMMISSIONER GIOVANNI:** So do these same
8 farmers have agreements with ADC?

9 **MR. CODIGA:** Yes.

10 **COMMISSIONER GIOVANNI:** So why doesn't --
11 why isn't it ADC that represents the farmers more
12 directly, as opposed to the infrastructure entity?

13 **MR. CODIGA:** Right. So this is something
14 that was also reviewed in preparation for submitting
15 the petition. And it was concluded that the co-op is
16 better a fit or perhaps falls more clearly under the
17 definition in the statutory context of 205 the IAL
18 statutory provisions as a farmer relative to ADC.

19 So it was decided that, really, if you
20 look at who are the farmers, you're looking at the
21 members of the co-op. They are farmers. This is a
22 different -- perhaps a slightly different
23 proposition when we're looking at ADC doing that.

24 And again, I would invite -- if it's
25 appropriate, for the commission to invite Ms. Kaichi

1 to provide any further clarification as may be
2 appropriate. But that's the basic answer.

3 **COMMISSIONER GIOVANNI:** Are there any
4 farmers on the specific lands that are not member of
5 KAA?

6 **MR. CODIGA:** Well, that's partly a legal
7 question and partly a factual question in which I
8 would actually wish to, with the chair's permission,
9 to confirm with my client representative in terms of
10 providing an accurate description.

11 But for purposes of this petition, you
12 know, it requires a farmer. We believe that the
13 petition identifies a farmer, and therefore it
14 provides us a sound basis for the commission to
15 proceed in approving the petition, because you have
16 a farmer and you have a petition.

17 But to answer your question more directly,
18 I believe there are other agricultural farmers, if
19 you will, or agriculturalists who are doing
20 agricultural activities on lands that are not
21 licensed to these five members.

22 But I would again appreciate the
23 opportunity to have my client confirm the correct
24 characterization of that, if and when that becomes
25 appropriate.

1 **COMMISSIONER GIOVANNI:** Thank you.

2 Chair, I'd like that clarified by Ms.
3 Kaichi at some point. I don't know if now's the time
4 or --

5 **COMMISSIONER SCHEUER:** Okay. Now is
6 actually the time for a break, so. I'm also going to
7 acknowledge that there is -- in the waiting room,
8 there's somebody calling by phone from a 586 number.

9 Ms. Kaichi, is there any chance that's Mr.
10 Nakatani? We have time for you to respond.

11 Mr. Uyehara?

12 **MR. UYEHARA:** I was just going to clarify
13 that is Ms. Kaichi, actually. I think she's having
14 trouble with her audio on the --

15 **COMMISSIONER SCHEUER:** Okay. Okay. So it's
16 9:54. We're going to take a 10-minute break. We're
17 going to reconvene at 10:04.

18 At 10:04, Mr. Codiga, with the assistance
19 of Ms. Kaichi, you can respond to the questions from
20 Commissioner Giovanni.

21 When it's time, we'll come back to the
22 question from Commissioner Okuda, when he's
23 prepared.

24 Recess until 10:04.

25 **(Recess taken from 9:54 a.m. - 10:04 a.m.)**

1 **COMMISSIONER SCHEUER:** It's 10:04. We're
2 back on the record, and we're continuing with
3 questions for Mr. Codiga and Ms. Kaichi from
4 Commissioner Giovanni.

5 So, Ms. Kaichi, if you would unmute? And
6 I'm going to swear you in. Do you swear or affirm
7 the testimony you're about to give is the truth?

8 **MS. KAICHI:** Yes.

9 **COMMISSIONER SCHEUER:** Okay. Would you
10 state your name and position for the record and then
11 respond to the question raised from Commissioner
12 Giovanni?

13 **MS. KAICHI:** Good morning, commissioners.
14 Myra Kaichi. I'm the senior executive assistant with
15 Agribusiness Development Corporation.

16 First, I'd like to apologize for all the
17 technical difficulties Zooming. Mr. Nakatani was
18 actually present the whole time, but I think we had
19 difficulty registering, and so he wasn't showing up.
20 I was on video, but I have no actual camera or
21 microphone, so I was actually on the phone. I was
22 the 586 number.

23 **COMMISSIONER SCHEUER:** Okay.

24 **MS. KAICHI:** Anyway, so here we are. I'm
25 sitting at -- I'm actually sitting at Jimmy's desk.

1 We decided this was -- he and I, if necessary, we'll
2 play tag team for this camera.

3 So the question. We've grappled with the
4 question of whether ADC is the proper party to give
5 approval for any matters, not just IAL designation,
6 but any matters affecting lands that are set aside
7 to ADC from the governor.

8 And as Commissioner Okuda had pointed out,
9 when our position is when lands are set aside to the
10 ADC under Chapter 171, they're not public lands as
11 that term is used in Chapter 171 and that management
12 and control is transferred.

13 If you look at the language that
14 Commissioner Okuda pointed out in 171-3, all of
15 those matters are actually given to ADC or to any
16 other recipient of land set aside. Therefore, we do
17 believe we do have -- we do have that authority to
18 allow a tenant to make this kind of designation when
19 it is -- or bring this petition for designation when
20 it is in the best interest of the state.

21 We almost always, though, defer to the
22 Department of Land and Natural Resources as the
23 keeper of the inventory of all lands. They are
24 tasked with knowing everything that is happening
25 with every square foot of state lands.

1 And I appreciate today the discussions
2 today basing the distinction between state lands and
3 public lands under Chapter 171. BLNR, in our
4 opinion, is responsible for taking care, or at least
5 knowing everything that's going on with all state
6 lands. But when they give away the management and
7 control and the authority to make decisions over
8 state lands under 171, public lands under 171, that
9 the receiving agency can do that.

10 ADC happens to still keep the BLNR
11 informed of everything that we're doing,
12 particularly when it's something that's perpetual.
13 And that should be included in the inventory
14 information of state lands.

15 **COMMISSIONER SCHEUER:** I'm going to pause
16 right now and ask Commissioner Giovanni to clarify
17 if his question's been answered, and if not, to
18 restate his question.

19 **COMMISSIONER GIOVANNI:** I think she was
20 responding to Commissioner Okuda, and she did not
21 respond to my question whatsoever.

22 My question, Ms. Kaichi, was one of
23 clarifying the respective relationship in terms of
24 farmers between ADC and KAA. It was clarified by Mr.
25 Codiga there are five members of KAA, which are also

1 farmers. And my question was could you please
2 characterize the farmers in ADC, licenses to
3 farmers.

4 There's 12,000 acres there. Do these five
5 farmers represent 100 percent of the land? Or are
6 there other farmers involved?

7 **MS. KAICHI:** Thank you. Okay. I did not
8 answer that question. You're correct.

9 The members of the KAA are the bigger
10 tenants. Of all the leased lands, licensed lands,
11 they represent the larger share, but they don't
12 represent 100 percent of all lands in Kekaha that
13 ADC licenses or leases out to its tenants, to
14 farmers.

15 The KAA is comprised, though, of these
16 large members, who also service, provide services,
17 provide the infrastructure improvements,
18 maintenance, repairs, for all farmers, big or small.

19 And the question, I think, for a landowner
20 like ADC is whether this is in the best interest of
21 the lands, of our tenants. At least in my mind,
22 there is no question about whether this is -- of how
23 this could not be in their best interest. But if
24 they do -- these smaller farmers, who struggle with
25 sufficient capital, to do undertaking --

1 **COMMISSIONER SCHEUER:** Ms. Kaichi, I'd
2 like you to narrowly address the commissioner's
3 questions, as well as the question I presented to
4 counsel, which is about authority. So it's
5 interesting to know whether or not you think this is
6 in the interest of the small farmers, but that's not
7 actually directly relevant to the question in front
8 of us.

9 **COMMISSIONER GIOVANNI:** How many small
10 farmers are there that are not -- that have licenses
11 to this parcel, or portions of this parcel?

12 **MS. KAICHI:** I think about six, maybe
13 seven. But anyway, less than a dozen. And the
14 acreage that they comprise and the farming that they
15 produce is minimal compared to the big tenants.

16 **COMMISSIONER GIOVANNI:** So what you're
17 saying is the five members of KAA, which are the
18 large farmers members or have larger licenses, they
19 have the overwhelming majority? More than 90 percent
20 of the land is under their control as farmers? Is
21 that what you're saying?

22 **MS. KAICHI:** Probably. I don't know if
23 it's 90 percent, but it is substantial.

24 **COMMISSIONER GIOVANNI:** I'm going to leave
25 it there. I was just looking for some clarification

1 on who's who here.

2 **COMMISSIONER SCHEUER:** Okay.

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

4 **COMMISSIONER SCHEUER:** Thank you.

5 Commissioner Ohigashi? I'm going to assume
6 the questions are directed to Mr. Codiga unless
7 they're otherwise specifically addressed to Ms.
8 Kaichi.

9 **COMMISSIONER OHIGASHI:** Well, I was going
10 to follow up on some questions that -- well, some
11 statements that Ms. Kaichi made.

12 The question that I have were if you know,
13 or maybe Mr. Codiga can answer this, if you know
14 whether all of the IAL designated areas are within
15 those five or six farms, five farmers that are in
16 control of Kekaha Agriculture Association.

17 **MS. KAICHI:** Doug, I guess that is
18 actually more you.

19 **MR. CODIGA:** Sure. Okay. So just to take
20 it from the top, the petition seeks to designate
21 portions of TMK. TMK. And this gets a little bit
22 into the substance, chair, but I assume it's
23 responsive and appropriate.

24 The tax map key is approximately 12,762
25 acres. The petition seeks to designate about 95

1 percent of that as IAL, and that's about 12,123
2 acres that is sought to be designated as IAL.

3 The members, the five members of the co-
4 op, do not license all 12,123 acres, if that answers
5 your question.

6 **COMMISSIONER OHIGASHI:** I'm not sure. What
7 I'm trying to get at is from the testimony of Ms.
8 Kaichi, she's indicated that there are other farmers
9 that comprise a small portion of the lessees on that
10 property.

11 **MR. CODIGA:** Yes.

12 **COMMISSIONER OHIGASHI:** So my question is
13 -- really is are these IAL, is any of the IAL
14 designated areas affecting these small farmers that
15 are five, six, to a dozen, as stated by Ms. Kaichi.

16 **MR. CODIGA:** Yes. Yes. I believe that's
17 correct, subject to check by my client
18 representative, which is Mr. Josh Uyehara. And, yes,
19 the intention was to designate all 12,123 acres
20 because it would be a benefit to any other farmers
21 that happen to currently or in the future license
22 the lands. This is a tremendous alignment.

23 **COMMISSIONER SCHEUER:** Okay. Let's just
24 focus on the question.

25 **COMMISSIONER OHIGASHI:** And the other part

1 of the question is this. What notice was given to
2 these small farmers for your application?

3 **MR. CODIGA:** Notice. Chair, if I may, this
4 is a question I would ask for the opportunity to
5 have my client representative speak to more directly
6 with regard to any communications that I may not be
7 aware of. There was no -- I'm not aware of any --

8 **COMMISSIONER SCHEUER:** Mr. Uyehara?

9 **COMMISSIONER OHIGASHI:** No. My question is
10 really simple, is that part of the petition process
11 that we've been told about other IAL designation is
12 to notify people who may be affected, have an
13 interest in the property. It would seem that these
14 lessees or these tenant farmers that are not covered
15 under here have an interest in the property, and
16 therefore, as a matter of due process, I'm just
17 wondering what formal notices were given in filing
18 this petition.

19 **MR. CODIGA:** Thank you, commissioner. I'm
20 not aware of formal notices being provided. However,
21 I would like for the opportunity to have my client
22 representative, which is in more direct
23 communication with the various farming interests on
24 West Kaua'i, if they would have an opportunity to
25 clarify that, that would be appreciated.

1 **COMMISSIONER OHIGASHI:** Did you -- I have
2 another follow-up. Did you, Mr. Codiga, file any
3 document or any letter or any correspondence or
4 anything within the record of this case so far that
5 shows any type of notification of these tenant
6 farmers?

7 **MR. CODIGA:** No.

8 **COMMISSIONER OHIGASHI:** Okay. I don't have
9 any questions.

10 **COMMISSIONER SCHEUER:** And I'll just sort
11 of notify your witness. And you've been in front of
12 the LUC before. Right now, I will call on
13 commissioners for questions. If you have something
14 you want your counsel to know, you can communicate
15 with your counsel that he can say, or your counsel
16 can specifically ask, and if I acknowledge, I'll
17 call on you to respond to the question.

18 But Mr. Ohigashi -- Commissioner
19 Ohigashi's -- questions have been answered to his
20 satisfaction so far.

21 Commissioner Chang?

22 **COMMISSIONER CHANG:** Thank you, Mr. Chair.

23 I'm not too sure if this is for Ms. Kaichi
24 or Mr. Codiga, but this is a follow-up to Ms.
25 Kaichi.

1 You had indicated that ADC has management
2 and that through the executive order, they have
3 management control of these lands. Is that correct?
4 Is that what you were saying? Is that what you said?

5 **MS. KAICHI:** Yes. That's correct.

6 **COMMISSIONER CHANG:** Okay. Do they -- and
7 in that executive order, is there a reverter clause
8 that says if the land is no longer used for the
9 purpose of the executive order that it would revert
10 back to the land board?

11 **MS. KAICHI:** Yes. It does.

12 **COMMISSIONER CHANG:** Okay. All right. So
13 then now my question is, I guess, to this -- and
14 this is probably to Mr. Codiga. It's a legal
15 question.

16 Landowner is defined as a fee simple,
17 having a fee simple interest. In my view, that is
18 separate and apart from a 171-2 public lands. It is
19 a question of who is the landowner, which is again
20 separate from whether these are public lands.

21 So my question to you is would you agree
22 with that, that the definition of a landowner under
23 this 15-15-3, the definition of landowner? It says
24 having a fee simple interest. So given the reverter
25 clause and given that ADC only has management

1 authority -- and again, none of this is dealing with
2 the substance of your petition; it's more
3 procedurally -- that -- okay, so.

4 And I know you said you are filing this
5 petition as a farmer, but I look at 15-15-121(b)(1),
6 authorization from the applicable landowner. So
7 notwithstanding that you are filing this as farmers,
8 it still has a requirement of the authorization of
9 the landowner. And the landowner is defined as the
10 fee simple interest.

11 So what is your opinion as to whether that
12 requires the Board of Land and Natural Resources to
13 provide authorization, or is it just ADC through
14 their board action?

15 **MR. CODIGA:** Yes. Thank you, commissioner.
16 I understand the point that you're raising, and the
17 petition as drafted proceeds on the assumption that
18 the appropriate authorization would come from ADC.
19 And that's based on the -- basically, executive
20 order 4007, which gives them control and management.
21 So we felt that that was the appropriate legal
22 analysis. It was for them to be considered having
23 the ability to authorize the KAA to file a petition.
24 That's how we have proceeded.

25 Your point concerning the definition is

1 well taken, but our interpretation of the rules is
2 that it would be appropriate for ADC to provide that
3 authorization -- again, based on the overall
4 context, in particular, the language of 4007.

5 Ultimately, this is a determination to be
6 made, obviously, by the commission. But that's our
7 position.

8 **COMMISSIONER CHANG:** But you would agree
9 that with the reverter clause, that the land board
10 still has -- is still the fee simple owner.

11 **MR. CODIGA:** Again, this is getting into
12 an area where we would to a certain extent feel that
13 it's appropriate to defer to ADC on how it
14 characterizes its land interest, because it has a
15 land interest that we don't. We do not -- we were
16 not given the land -- my client was not given --

17 **COMMISSIONER SCHEUER:** Briefly, Mr.
18 Codiga, you'd not answer that question, but you're
19 suggesting ADC can.

20 **COMMISSIONER CHANG:** Yes.

21 **MR. CODIGA:** Yes.

22 **COMMISSIONER CHANG:** All right. Thank you.

23 So, Ms. Kaichi, do you have a fee simple
24 interest in the land? Does ADC have a fee simple
25 interest in the land?

1 **MS. KAICHI:** That's such an interesting
2 question, and I think you may have -- you have
3 raised the crux of the issue. Any time, any time the
4 issue of the fee simple ownership of state lands
5 arises, and in my past, in my former life as a
6 deputy attorney general, every time we encountered
7 this, it depended. The answer depended on the
8 situation.

9 And I can appreciate your likening the
10 reverter interest of BLNR to the fee simple interest
11 like a -- well, even like a lease, where at the end
12 of the lease, the fee the possession and all the
13 entitlements thereto revert back to the fee owner. I
14 appreciate that.

15 I never actually got a consistent position
16 from BLNR. At that time, I dealt mostly with the
17 Land Division attorneys. It seemed to vary. I don't
18 know that in this particular situation the land
19 board would take that position, that the reverter is
20 tantamount or indicates that the BLNR holds a fee.

21 I do remember that there were times when
22 BLNR would take the position that it's the state of
23 Hawai'i, it's the nebulous state of Hawai'i. Land
24 Division or BLNR is just the keeper of it. They're
25 responsible for it. But the lands are not -- fee is

1 not held by the Department of Land and Natural
2 Resources. It's the state of Hawai'i.

3 So if you -- and that may be true. If you
4 look at the Bureau of Conveyances and the Land
5 Court, sometimes the owner is recorded as the state
6 of Hawai'i. Sometimes it's recorded as state of
7 Hawai'i BLNR. When we hold the fee, it's sometimes
8 referred to as state of Hawai'i -- we, ADC.
9 Sometimes it's state of Hawai'i, ADC.

10 It seems to vary. I don't know that we
11 have a -- I can provide an accurate opinion right
12 now on really the status of fee, the fee simple
13 ownership, and then whom that fee would lie when it
14 comes to state lands.

15 **COMMISSIONER CHANG:** Okay. Well, I
16 appreciate the explanation. I was a former deputy
17 attorney general to advising BLNR, and I think we
18 consistently took a position fee simple, especially
19 if there's a reverter clause, is with the Board of
20 Land and Natural Resources.

21 Management authority may be with the
22 agency that's been EO'd. And I don't think the board
23 oversees the management. But if there's any
24 potential interest that may affect the fee simple,
25 especially in the interest with respect to the

1 reverter, and it has -- at least, it's been my
2 experience that the practice has been to go back to
3 the land board to get their approval.

4 But, you know, that may be another -- but
5 I think that that is an unresolved legal question. I
6 think an abundance of caution. You know, you
7 probably want to get some kind of a clarification on
8 that. But I see that this is the landowner, the
9 authorization.

10 I also appreciated Mr. Ohigashi's comment
11 about notice of, you know, where these small
12 farmers, notwithstanding that their interest is
13 small, they still nonetheless have an interest in
14 the property. So I think that there are some issues
15 that seem to be unresolved.

16 I don't have any further questions, Mr.
17 Chair. Thank you.

18 **COMMISSIONER SCHEUER:** Thank you,
19 Commissioner Chang.

20 Commissioners Cabral and Ohigashi, with
21 your permission, I have one narrow question that
22 just relates directly to this issue that I'd like to
23 insert here before we move on to yours, if that's
24 okay. Okay.

25 And I'm going to address this to Mr.

1 Codiga, but if you want to defer to Ms. Kaichi.

2 And you are lying in part, I believe, on
3 the testimony provided, Mr. Codiga, from ADC,
4 indicating their approval of this.

5 **MR. CODIGA:** That's correct.

6 **COMMISSIONER SCHEUER:** And in the minutes
7 from the ADC meeting of January 31st, 2018, which
8 were included as part of the record in this matter,
9 on page 5, the minutes state, and I quote,
10 "Therefore, simultaneously with this request, the
11 ADC has requested that the land board also approve
12 KAA's proposed action."

13 So my question is was that actually done?
14 My questions are was that actually done? Is there
15 evidence in the record to indicate the BLNR has been
16 requested? And is there any evidence that they have
17 assented?

18 **MR. CODIGA:** Thank you, chair. I would
19 need to defer that response to Ms. Kaichi in terms
20 of the actual facts, what actually happened.

21 **COMMISSIONER SCHEUER:** Okay.

22 **MR. CODIGA:** So let me go ahead and do
23 that and have her respond, initially.

24 **COMMISSIONER SCHEUER:** Ms. Kaichi, was it
25 actually done? Is there evidence in the record that

1 it was done? Is there evidence of BLNR ever doing
2 what was represented at the time was going to occur?

3 **MS. KAICHI:** Thank you, chair. I don't
4 have the minutes in front of me, but --

5 **COMMISSIONER SCHEUER:** It's part of your
6 testimony.

7 **MS. KAICHI:** Of my testimony?

8 **COMMISSIONER SCHEUER:** It is part of ADC's
9 testimony submitted. They're minutes from the
10 Agribusiness Development Corporation approved
11 February 28th from the January 31st meeting.

12 **MS. KAICHI:** Yeah. Thank you. I don't --
13 my recollection of that is that ADC had -- ADC was
14 not taking on the responsibility of securing the
15 approval of the BLNR or the BLNR chair or the land
16 board for this action. We were requesting -- we were
17 suggesting that they also secure the land board
18 approval of this matter.

19 ADC, though, did in an attempt to move
20 this along, communicate via letter. We sent a letter
21 to Chair Case, and I don't believe that was ever
22 responded to. But we had never intended to actually
23 go to the land board on behalf of the KAA to secure
24 land board approval.

25 **COMMISSIONER SCHEUER:** So but there's

1 nothing in the minutes that sort of indicates this.
2 The minutes simply say, "Simultaneously with this
3 request, the ADC has requested that the land board
4 also approve the KAA's proposed action."

5 **MS. KAICHI:** It was just a letter. It was
6 just a letter to Chair Case.

7 **COMMISSIONER SCHEUER:** Requesting that you
8 approve KAA's proposed action?

9 **MS. KAICHI:** I believe it's requesting
10 consideration of --

11 **COMMISSIONER SCHEUER:** Is that in the
12 record? Is that letter to Chair Case in the record?

13 **MS. KAICHI:** I don't believe he submitted
14 it.

15 **COMMISSIONER SCHEUER:** Okay. Thank you.
16 I'll go back to Commissioner Cabral.

17 **COMMISSIONER CABRAL:** Thank you. This
18 question was brought up by my fellow Commissioner
19 Ohigashi, and I did not really understand or feel
20 like I got a clear answer.

21 The other tenants are farmers that are in
22 the same -- that are in the same general area that
23 are included -- and I think this is for Mrs. Myra
24 Kaichi. So I think the same -- my concern is the
25 farmers who have been -- the smaller ones that are

1 on land that is part of the designated area for IAL.
2 Have they all been notified, officially notified,
3 that the land that they're farming, that they're
4 paying some type of lease rent on, has been swept up
5 into this IAL petition?

6 **COMMISSIONER SCHEUER:** Who was your
7 question for?

8 **COMMISSIONER CABRAL:** I think that would -
9 - I don't know, but I would assume from this, where
10 they've been sent, it would be for Ms. Kaichi. But I
11 don't know in their structure who would know to
12 notify those parties.

13 **COMMISSIONER SCHEUER:** I'm going to let
14 Mr. Codiga as the applicant referee.

15 **COMMISSIONER CABRAL:** Okay.

16 **COMMISSIONER SCHEUER:** Are you answering
17 this, or Ms. Kaichi?

18 **MR. CODIGA:** Oh, sure. I will be happy to
19 respond and clarify, as consistent with my prior
20 comments to Commissioner Ohigashi, that our office
21 did not send any kind of formal notice to the other
22 farmers. However, the KAA, as my understanding, is
23 in routine and frequent contact with them.

24 And therefore, chair, with your
25 permission, not to complicate things or further

1 delay this, but we do have the president of the KAA
2 board of directors who I believe could shed light on
3 this, if you're willing to have him address this.

4 **COMMISSIONER SCHEUER:** To whom are you
5 referring?

6 **MR. CODIGA:** Josh. Mr. Uyehara.

7 **COMMISSIONER SCHEUER:** Okay. I will --

8 **COMMISSIONER CABRAL:** Mr. Uyehara, do you
9 know if the --

10 **COMMISSIONER SCHEUER:** Yes. I will swear
11 him in first.

12 **COMMISSIONER CABRAL:** Sorry.

13 **COMMISSIONER SCHEUER:** Do you swear or
14 affirm the testimony you're about to give is the
15 truth?

16 **MR. UYEHARA:** Yes.

17 **COMMISSIONER SCHEUER:** Okay.

18 Ms. Cabral -- Commissioner Cabral, please
19 ask the question to Mr. Uyehara.

20 **COMMISSIONER CABRAL:** Yeah. The question
21 I'd like to think is simple. Are the other farmers
22 that lease land so I'm assuming there's kind of
23 contract, a written contract, written agreement, and
24 that money changes hands to have use of that land.
25 Have they been notified in an official manner that

1 this -- that the land that they're leasing has been,
2 is part of being swept up in this petition to be
3 IAL?

4 **MR. UYEHARA:** I know we've had discussion
5 with them. We've put together, basically, a short
6 info document on the benefits of IAL, and, you know,
7 particularly the tax credit incentive, and had the
8 discussions with the other tenants. I don't know if
9 that would qualify as a formal -- I don't think we
10 sent, like, a certified letter or anything like
11 that. But I do know we've had those discussions with
12 the tenants. And this is over a process that we've
13 been pursuing over a number of years.

14 **COMMISSIONER CABRAL:** Were you able to
15 document that they've all been party to that or all
16 seen the video or all been part of that conversation
17 or a meeting or something?

18 **MR. UYEHARA:** I'd have to go back and try
19 to find that, if we can. I'm not sure at this point.

20 **COMMISSIONER CABRAL:** Okay. Thank you very
21 much.

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

24 I'm going to call on Commissioner
25 Ohigashi, and then I'm going to assess the status of

1 our proceedings.

2 Commissioner Ohigashi?

3 **COMMISSIONER OHIGASHI:** Well, I think that
4 you asked sort of my question, but I am going to --
5 if we go forward, I'm going to alert Ms. Kaichi that
6 on the substance I'm going to ask this question. So
7 if we go forward on this matter in the future, I'm
8 hoping that you guys will be prepared to answer it.
9 And I'm not sure if you're going -- I don't think
10 you'll do it today, but the question is really about
11 your letter that you provided on December 6th, 2021.

12 And on the second page, Mr. Nakatani, it
13 says that -- essentially says that with the added
14 advantages that the IAL incentives will afford, ADC
15 anticipates an increase of revenues, increased and
16 sustainable yields from the Kekaha lands which will
17 contribute to the agricultural revenues and provide
18 for agricultural labor.

19 So your statement there, I'd like you to
20 be prepared if we go forward to back that up with
21 what evidence was used to base that on. So that's
22 what I thought I'd use this opportunity right now.
23 Thank you.

24 **COMMISSIONER SCHEUER:** Commissioner
25 Ohigashi, I will -- I said I was going to assess the

1 status of the proceedings, but I forgot I was going
2 to go back to Commissioner Okuda. And I'll do Okuda
3 and then assess.

4 **COMMISSIONER OKUDA:** Okay. Thank you, Mr.
5 Chair. And I apologize to everyone, not being
6 prepared. I should have been prepared with this
7 question.

8 Let me ask this. And I'm not sure whoever
9 is the appropriate person. I'm referencing the
10 document which was filed on December 17, 2021, with
11 the Land Use Commission at 9:38 a.m. That's the
12 Agribusiness Development Corporation Minutes of the
13 Board of Director meeting for January 31, 2018.

14 And if either Mr. Codiga or Ms. Kaichi can
15 look at page 5 of that document, on the bottom
16 paragraph and kind of in the middle of the bottom
17 paragraph, it says here, and I quote, "The petition
18 will only see IAL designation. There will be no
19 request to reclassify any ADC lands. Although the
20 ADC manages these lands, the fee simple interest in
21 and to the lands remain with the state of Hawai'i
22 through its Board of Land and Natural Resources.
23 Therefore, simultaneous with this request, the ADC
24 has requested that the land board also approve the
25 KAA's proposed action." And I end my quotation

1 there.

2 My first question is did I accurately read
3 that section from page 5 of the document? And then
4 my second question would be if I accurately read
5 that part of the document, is there any evidence in
6 the record that the land board has also approved the
7 KAA's proposed action?

8 **MR. CODIGA:** Let's see. Commissioner, I
9 can respond to that. Obviously, the first part, your
10 first question, yes, I believe you've accurately
11 stated that language.

12 With regard to the second question, on
13 behalf of the KAA, we have not, to my knowledge,
14 obtained that kind of formal approval. We would
15 defer to ADC consistent with Ms. Kaichi's earlier
16 remarks about the efforts that were made,
17 apparently, to obtain that. And Ms. Kaichi may wish
18 to further clarify.

19 **COMMISSIONER OKUDA:** May I ask, then, that
20 if Ms. Kaichi has any additional items to add to
21 that?

22 **MS. KAICHI:** Thank you. Mr. Codiga is
23 correct. ADC did not secure any approval from the
24 BLNR. And, commissioner, I believe this is just a
25 different approach to the very same conversation,

1 the discussion that we had with Commissioner Chang a
2 moment ago. This is really the same issue, in my
3 mind.

4 **COMMISSIONER OKUDA:** Okay. And if I can
5 ask one question.

6 And, Mr. Chair, if I'm out of order at
7 this point, you can tell me.

8 But what prejudice would the KAA or anyone
9 else have if this matter was deferred so that some
10 of these issues can be clarified or be made more
11 certain? Can you point -- can anyone point to any
12 specific prejudice that would occur by a deferral at
13 this time?

14 **MR. CODIGA:** Commissioner, on behalf of
15 the KAA, I believe that there would be concerns. I'm
16 not certain that I would characterize them as being
17 prejudicial in the sense of a procedural matter.

18 I would request again, chair, if I may ask
19 Mr. Uyehara, who has been focused on the practical
20 benefits to the co-op members and to all of the
21 other users of the Kekaha ag lands, perhaps he could
22 say just a little bit more about the nature of the
23 intended benefits and those which could give rise to
24 certain concerns in terms of timing. But I want to
25 stress that may or may not be necessarily

1 prejudicial, to be directly responsive to the
2 question.

3 I believe Mr. Uyehara could shed a little
4 bit more light on that.

5 **COMMISSIONER SCHEUER:** I'll allow a brief
6 answer, Mr. Uyehara.

7 **MR. UYEHARA:** All right. Thank you, chair.

8 I'm not sure if this answers the very
9 specific question. There would be a benefit to the
10 farmers on the property and to the KAA if this is
11 granted at this date, but it's not something that I
12 would say -- you know, I can certainly understand,
13 given the discussions, if there is a need to defer
14 to clarify some of the issues before we're able to
15 proceed.

16 **COMMISSIONER OKUDA:** Thank you very much,
17 Mr. Chair. I have no further questions. I do
18 apologize for not being prepared. Thank you.

19 **COMMISSIONER SCHEUER:** No, not a problem.
20 Commissioner Cabral?

21 **COMMISSIONER CABRAL:** Thank you.

22 I think this would go back to Josh
23 Uyehara. And thank you for your input. I'm fixated
24 on this, the other lessees as well as even your
25 members. Were these lessees, the other lessees on

1 the land, and are your member lessees members
2 notified of the hearing today that was taking place?

3 **MR. CODIGA:** Certainly, our members were,
4 given the direct involvement with the KAA. We didn't
5 specifically reach out to notify the other tenants
6 on the property.

7 Then just to clarify an early question, so
8 the members of the KAA comprise about 94 percent of
9 the land under license now with ADC. So those
10 members were notified as part of their involvement
11 with the KAA. The others were not.

12 **COMMISSIONER CABRAL:** Okay. Thank you for
13 your clarity there. And we'll say that if this
14 meeting is deferred and we have another hearing, I
15 sure like it to have -- to think that everyone's
16 been notified of it; okay? Makes me always want to
17 include everybody. Okay. Thank you very much,
18 though.

19 **COMMISSIONER SCHEUER:** Thank you.

20 Commissioners, I want to take up the issue
21 of the status of our proceedings and the procedures
22 I had laid out. I had laid out that I will
23 sequentially deal first with the issue of whether or
24 not BLNR approval was required. I'll just say at
25 this point I don't know that we can resolve that

1 here today. We have contradictory statements on the
2 record and contradictory assertions.

3 We haven't taken up the issue of whether
4 or not there is a broad obligation for the state to
5 designate all IAL lands under its control at one
6 time or whether it can be done in an ad hoc or
7 piecemeal fashion.

8 We have also not addressed two other issues
9 that have emerged today: the concerns of neighboring
10 landowners/land users, KIUC and DHHL, and the fact
11 that apparently some of the tenants whose lands
12 would be included in this might not have even
13 received notice of this meeting today.

14 It's my assessment as the chair -- it's
15 like at this point, we could go on down the road of
16 trying to address each of the questions that I laid
17 out, but I believe they're all pointing towards,
18 frankly, for the interest of the applicant.

19 The floor is in order at this point, and I
20 would much rather have a start of our next hearing
21 on this matter be prepared for all the parties to
22 actually brief these issues. Now, whether there
23 needs to be a briefing on the issues of KIUC and
24 DHHL, I don't know. All they said was, hey, we just
25 heard about it, so we want to study it. Maybe they

1 will have issues that need to be resolved. Maybe
2 they'll be fine with things.

3 We don't know what the small tenants might
4 be thinking, because apparently, they weren't ever
5 told. We do know that the questions about BLNR's
6 issues, ability to approve, or the requirement to
7 prove on this or not, as well as the issue of
8 comprehensives then can be briefed on.

9 So my inclination is to not go through
10 what I think would be a more unproductive morning,
11 but instead move towards deferment with our next
12 step as a briefing at least on those two threshold
13 issues of BLNR's requirement for approval and
14 whether or not the comprehensiveness.

15 Now, I will say it is actually possible
16 between this hearing and the next hearing for ADC to
17 follow up on its letter to Suzanne Case and say,
18 hey, can we get this on the board agenda? And that
19 would actually dispose of the question of whether or
20 not BLNR needs approval if approval is obtained. And
21 then we would just be left with the one issue.

22 That's where I'm at right now in the
23 interest of all the parties' time and really in the
24 interest of what the applicant is trying to achieve.
25 I'll recognize the commissioners.

1 Commissioner Chang?

2 **COMMISSIONER CHANG:** Thank you. I
3 appreciate the chair's explanation. I would like to
4 hear from OP, both the Office of Planning as well as
5 the County of Kaua'i with respect to this very
6 limited question of authorization before we take
7 action on the deferral.

8 **COMMISSIONER SCHEUER:** Commissioner
9 Giovanni?

10 **COMMISSIONER GIOVANNI:** Yes. Thanks,
11 chair. I just wanted to put something in context for
12 everyone's benefit.

13 We talk about the small landowners not
14 being members of KAA representing only 6 percent of
15 the land. That's 720 acres. That's not -- that's
16 non-trivial to me.

17 Also, in the commentary by KIUC, they
18 mentioned that the West Kaua'i Energy Project would
19 just take a small portion. The word "small portion".
20 I live in the area on Kaua'i that's neighboring
21 that. I follow these projects pretty closely in
22 their development. They're also looking at several
23 hundred acres of this parcel. That's not so small in
24 my view.

25 So I just wanted to put in the context for

1 all the commissioners. What's small to some people
2 is not small to others.

3 Thank you.

4 **COMMISSIONER SCHEUER:** So, Commissioner
5 Giovanni, does that speak to the question of whether
6 we move in the need to defer or whether we continue
7 on with our proceedings?

8 **COMMISSIONER GIOVANNI:** I support your
9 inclination. I would also support Commissioner
10 Chang's comment to hear briefly from OP and the
11 county on this matter.

12 **COMMISSIONER SCHEUER:** Okay.

13 Commissioners, anything further?

14 I'm trying to run these proceedings in an
15 efficient manner that's obvious to all the parties.
16 Okay. Seeing none, I'm going to say, then, if
17 there's no further questions for the petitioner at
18 this time, I'd like to hear very briefly from the
19 county and OPSD, if they desire, on the issue of
20 BLNR jurisdiction. And then we'll move to
21 deliberation of whether or not to defer or to
22 continue on with the other issues.

23 Ms. Barzilai?

24 **MS. BARZILAI:** Thank you, chair.

25 At this time, I am in support of the

1 chair's preference to brief these issues and move
2 forward at a deferred time with a more formal
3 understanding of authority. However, my comment on
4 what we've been discussing this morning is as
5 follows.

6 At the outset, I am in approval, and the
7 county is in support of the OPSD comments on the
8 matter of public lands that were filed on December
9 17, which discuss HRS 171-2 and exclude ADC lands
10 from the interpretation of public lands. This is
11 simply on the matter of public lands.

12 With regard to the appropriateness of
13 petition by farmer or landowner, I do support that
14 under 15-15-121, farmer may bring this petition.
15 However, Commissioner Chang's discussion is highly
16 persuasive on the fact that authorization must come
17 from the applicable landowner.

18 Based on this morning's discussion, it
19 appears that this may only be shown by conveyance
20 documents as to who is the actual applicable
21 landowner in this matter.

22 As a separate matter, we have the concerns
23 of Commissioners Ohigashi and Cabral regarding
24 notice to the individual farmers. I believe that
25 this is separate and apart from BLNR authority and

1 should also be addressed.

2 Finally, as stated in the petition, it is
3 ADC that directly leases to these farmers, and not
4 KAA. And this raises another fact. With the
5 complication of the ADC minutes, which indicate that
6 land board approval was suggested and not received,
7 and the exhibit cited by Commissioner Okuda, I do
8 believe that a deferral would be appropriate today.

9 Thank you, chair.

10 **COMMISSIONER SCHEUER:** Thank you, Ms.
11 Barzilai.

12 Commissioners, are there questions for
13 Kaua'i County?

14 It's a rare honor, Ms. Barzilai, to not
15 have questions from the commissioners. You were
16 clear.

17 **MS. BARZILAI:** Thank you very much, chair.
18 Thank you, commissioners.

19 **COMMISSIONER SCHEUER:** Ms. Kato?

20 **MS. KATO:** On the issue of deferral, OPSD
21 agrees that the matter should be deferred so that
22 the various matters, various issues raised today can
23 be properly addressed.

24 On the issue of authorization, I know that
25 there are differing views, as Myra and Commissioner

1 Chang were discussing earlier, but my understanding
2 is that the state of Hawai'i is the fee simple owner
3 and that it's under the control and management of
4 ADC for the state of Hawai'i as opposed for BLNR,
5 based on the set aside that's in Executive Order
6 4007.

7 So in other words, BLNR does not control
8 or manage this land on behalf of state of Hawai'i.
9 ADC does.

10 Under HRS 171-3, BLNR has management and
11 control over public lands. Generally, as Myra
12 pointed out, a set aside to ADC is -- excepts it
13 from public lands under HRS 171-2. So I believe that
14 takes it out of BLNR's control under HRS 171-3.

15 To OPSD's knowledge, ADC deals with the
16 Kekaha ag lands without the need for approval by
17 BLNR on any matter such as when leasing out lands.
18 So OPSD does feel that ADC does have authority to
19 bring this IAL petition -- or to approve KAA to
20 bring the IAL petition.

21 But again, if this matter is deferred,
22 then we would have additional time to further
23 research the matter.

24 **COMMISSIONER SCHEUER:** I didn't mean to
25 interrupt you, Ms. Kato.

1 **MS. KATO:** Oh, no. No, that's okay. I
2 think that's all the comments that I have.

3 **COMMISSIONER SCHEUER:** Okay.

4 Questions for OPSD?

5 Commissioner Chang? I saw the eyebrows
6 move before the hand went up.

7 **COMMISSIONER CHANG:** Couldn't get my hand
8 up fast enough. Thank you. Thank you, chair.

9 Ms. Kato, I am going to give you an
10 opportunity to more thoroughly brief this issue, but
11 do you view management the same as fee simple?

12 **MS. KATO:** No. I think that the state of
13 Hawai'i is the fee simple owner as opposed to
14 necessarily, you know, BLNR.

15 **COMMISSIONER CHANG:** Okay.

16 **MS. KATO:** And I think that for the
17 purposes of the state of Hawai'i, the control and
18 management of lands on behalf of the state of
19 Hawai'i would be simple owner.

20 **COMMISSIONER CHANG:** Then let me ask you
21 this question. Who approved the executive order? Who
22 granted that? Because that would have been the fee
23 simple owner. So who would have -- who did that?

24 **MS. KATO:** I mean, is that -- sorry. I am
25 not super familiar with executive orders, but I

1 thought that --

2 **COMMISSIONER SCHEUER:** Put her out of her
3 misery, Commissioner Chang, because I think you know
4 the answer.

5 **MS. KATO:** Is it BLNR?

6 **COMMISSIONER CHANG:** I know. Yes. I know.
7 Be careful, Ms. Kato. Being a former deputy AG, I --
8 so again, I am going to, you know. I think you know
9 what my concerns and issues are. I would ask that
10 you more thoroughly brief that, as well as Ms.
11 Kaichi.

12 I think there is a distinction between
13 management. For example, if ADC decided they're
14 going to sell this land as a manger, I think the
15 land board would want to have some input into that.

16 So again, no need to answer that question,
17 but I think you know the position, and I would
18 appreciate having a more thorough briefing from OP
19 on that, because clearly this is not going to be the
20 last time this issue comes up, especially with ADC.
21 What is the distinction between management of land
22 versus fee simple owner, especially with the
23 reverted clause? So you may also want to look at
24 that executive order, too.

25 So I have no further questions, Mr. Chair.

1 **COMMISSIONER SCHEUER:** Anything else,
2 commissioners, for Ms. Kato?

3 Commissioner Okuda?

4 **COMMISSIONER OKUDA:** Thank you, Mr. Chair.

5 Following up on Commissioner Chang's
6 questions, Ms. Kato, if when you do the additional
7 briefing, you look at the executive order, which was
8 signed by James Iona at that time acting as acting
9 governor. And what it does say in the sentence, it
10 delegates to the Agribusiness Development
11 Corporation, and I quote, "the control and
12 management". So if you can consider that in whatever
13 subsequent briefing you do.

14 Thank you very much, Mr. Chair. No further
15 questions.

16 **COMMISSIONER SCHEUER:** Thank you.

17 Commissioners, anything further?

18 Commissioner Ohigashi?

19 **COMMISSIONER OHIGASHI:** More of a comment.

20 I think that if they receive Board of Land and
21 Natural Resources approval, this renders this whole
22 issue moot. So I perceive an opportunity from
23 Kaichi's department to pursue what they had written
24 down in their minutes and decided to pursue.

25 **COMMISSIONER SCHEUER:** Thank you,

1 Commissioner Ohigashi.

2 Anything further for Ms. Kato?

3 I'd be interested in hearing from Ms.
4 Kato, even though it's not -- you didn't write ADC's
5 minutes. They fully seemed to indicate they thought
6 they needed approval at one point. Otherwise, they
7 wouldn't have written the letter asking for
8 approval.

9 **MS. KATO:** That may have been just a
10 question. That's speculation on my part. I don't
11 know what happened at their meeting or how that was
12 decided.

13 **COMMISSIONER SCHEUER:** I read the
14 statement correctly; right? I didn't read the
15 minutes incorrectly.

16 **MS. KATO:** I recall seeing that, but I
17 couldn't say.

18 **COMMISSIONER SCHEUER:** Okay.

19 **MS. KATO:** Sorry.

20 **COMMISSIONER SCHEUER:** Anything further
21 for Ms. Kato?

22 So, commissioners, I don't want to --
23 well, let's see, procedurally. I'm moving towards a
24 request for deferral -- or move to defer, with a
25 clear -- sort of minimal requests, and then sort of

1 additional suggestions. And I will offer that and
2 the opportunity to respond.

3 I want either a sort of additional
4 briefing on the specific issues of whether or not
5 BLNR authorization is required, responding to the
6 points raised today during discussion, or
7 verification that BLNR has approved it before it
8 comes before us.

9 I'd like a briefing on the issue of
10 whether or not this can be done in a piecemeal
11 fashion or whether or not there's an obligation to
12 look at the Important Agricultural Lands in the
13 state at least regionally, if not by island, as I
14 stated earlier.

15 And then moving on to more of a
16 suggestion, having done this job for a number of
17 years, when you have notable agencies and neighbors
18 showing up at a hearing saying, eh, we never heard
19 about this, it really makes everybody's job a heck
20 of a lot easier with a little more outreach before
21 bringing something forward.

22 It would behoove the applicant to do
23 outreach to any and all affected parties, including
24 their own tenants, so that there's no questions
25 about this.

1 I want to make a little space. I don't
2 want to give extensive instructions, but a little
3 space to ask the commissioners if there's any
4 additional things they would hope would be addressed
5 the next time we gather on this petition if we move
6 to defer?

7 Commissioner Chang.

8 **COMMISSIONER CHANG:** Thank you, Mr. Chair.
9 In addition to the questions that you've noted, one
10 would be who's the appropriate applicant? Is it ADC
11 or is it KAA? As it is clear that KAA does not
12 represent -- or that there are other lessees to ADC
13 that are not here. So that would be to me another
14 question.

15 And following up with Commissioner
16 Giovanni, explanation that these are not small.
17 Several hundred acres, that's a substantial amount.
18 So that would be an additional question, Mr. Chair.

19 **COMMISSIONER SCHEUER:** Thank you.
20 Anything from other commissioners?
21 Commissioner Giovanni?

22 **COMMISSIONER GIOVANNI:** Yeah. I don't have
23 a good understanding or feel for the issues that
24 were generally raised by Mr. Aila. How long it might
25 take them -- you know, what would be appropriate for

1 them to -- amount of time that they would feel
2 comfortable coming back before this commission with
3 matter resolved to their satisfaction.

4 In other words, I'd hate to defer this to
5 too short a period and not give them enough time to
6 work out whatever those differences are. So was it
7 worth any time today to get a better feel for what
8 those issues might be and how much time might be
9 necessary to resolve them?

10 **COMMISSIONER SCHEUER:** Mr. Orodenger?

11 **MR. ORODENKER:** Mr. Chair, we could not
12 get this matter back on the hearing schedule until
13 April. So I would assume that --

14 **COMMISSIONER SCHEUER:** I would assume
15 that's adequate time to brief on these issues as
16 well as to do any sort of coordination required.

17 **COMMISSIONER GIOVANNI:** Correct.

18 **COMMISSIONER SCHEUER:** Anything further,
19 commissioners? If not, I want to hear from Mr.
20 Codiga.

21 **MR. CODIGA:** Thank you, chair and
22 commissioners. Chair, the specific question before
23 my client would be whether -- our position on the
24 deferral, just to be -- for clarity?

25 **COMMISSIONER SCHEUER:** That's correct.

1 **MR. CODIGA:** Okay. Yeah. We have no
2 objection. We understand the concerns that have been
3 raised, and we appreciate everybody's time and
4 efforts, especially at this very busy time of year,
5 and we will absolutely do our best to work
6 collaboratively with all parties and stakeholders to
7 address the questions to the satisfaction of the
8 commission.

9 **COMMISSIONER SCHEUER:** Excellent.
10 Commissioner Okuda?

11 **COMMISSIONER OKUDA:** Thank you very much,
12 Mr. Chair. And I'm sorry for not chiming in a little
13 bit earlier.

14 Specifically, I would ask the parties to
15 comment or discuss or if it's not applicable at
16 present, explain why not, the statement that was in
17 the minutes that I had read. And that specific
18 statement is, and I quote, "Although the ADC manages
19 these lands, the fee simple interest in and to the
20 lands remain with the state of Hawai'i through its
21 Board of Land and Natural Resources. Therefore,
22 simultaneous with this request, the ADC has
23 requested that the land board also approve the KAA's
24 proposed action."

25 If that statement is no longer operative,

1 I ask and people don't have to follow my request,
2 but I ask that an explanation be given why that
3 statement is no longer applicable for us to go
4 forward. Thank you very much.

5 **COMMISSIONER SCHEUER:** So here's what I'm
6 thinking we might do, and I'm going to look to Mr.
7 Orodenker for his sort of reactions.

8 I would entertain a motion to defer with a
9 request that the parties' brief on a specific set of
10 issues that have been raised today and that the Land
11 Use Commission staff summarize these issues in a
12 letter prepared for my signature to the parties, and
13 the next hearing on this matter would be taken up
14 with a discussion of these matters so that we can
15 then move forward to the case in chief.

16 Is that, Dan, something doable? You're
17 nodding your head, but your head in my screen is,
18 like, three pixels high, tall, so if you could
19 orally respond.

20 **MR. ORODENKER:** Yes, Mr. Chair. That is
21 acceptable.

22 **COMMISSIONER SCHEUER:** Okay.
23 Commissioner Ohigashi?

24 **COMMISSIONER OHIGASHI:** I'm wondering if
25 we'd need also, just to protect in the future, the

1 request to the AG for comment on the issue of
2 intervention in this matter, as the published -- or
3 as the opinion that we released regarding the
4 Honolulu IAL lands indicated is that there is levels
5 of due process that may be appropriate in a
6 particular matter, and therefore, as it applies to
7 this IAL petition and the already released opinion.
8 How does that affect intervention rights of --

9 **COMMISSIONER SCHEUER:** So if I -- if I
10 may, I think we could address that in an executive
11 session agendized for the next meeting on this
12 matter.

13 **COMMISSIONER OHIGASHI:** That's fine with
14 me.

15 **COMMISSIONER SCHEUER:** Okay. Thank you,
16 commissioner.

17 **COMMISSIONER OHIGASHI:** I'm just -- I
18 thought we made it public is why.

19 **COMMISSIONER SCHEUER:** Yeah, yeah. Well,
20 if we're going beyond that, I don't want to go
21 through that whole loop again of asking for opinion
22 and making additional information public.

23 Commissioners, does somebody want to make
24 a motion to the effect that I've discussed,
25 requesting that we defer matters on this, we ask for

1 briefing on the issues that we've raised, and that a
2 letter summarizing those issues will be sent to the
3 parties from -- prepared by the staff and signed by
4 the chair?

5 Commissioner Giovanni?

6 **COMMISSIONER GIOVANNI:** I so move, Mr.
7 Chair, that we defer this matter and ask our LUC
8 staff to prepare a letter to the parties that
9 summarizes the issues to be briefed before this
10 commission as you've described.

11 **COMMISSIONER SCHEUER:** And I see hands
12 from both Commissioner Ohigashi and -- oh, I'm not
13 sure.

14 Commissioner Cabral?

15 **COMMISSIONER CABRAL:** Thank you. I want to
16 second that so we can all move on. Thank you.

17 **COMMISSIONER SCHEUER:** Okay.

18 Commissioners, we have a motion before us.
19 Is there any discussion?

20 Commissioner Chang?

21 **COMMISSIONER CHANG:** Yes. I'm inclined to
22 support the motion. In addition, I do want the
23 parties to take some initiative. While the letter
24 may indicate the issues to be addressed, they may
25 not be exhaustive. So I think the parties have heard

1 what the commission's concerns are, and I would hope
2 that they would exercise their own initiative. If
3 there are issues beyond what's been listed, you will
4 address those as well. Thank you.

5 **COMMISSIONER SCHEUER:** Thank you,
6 Commissioner Chang.

7 Commissioner Giovanni?

8 **COMMISSIONER GIOVANNI:** Yeah. A number of
9 the issues that have come up are legal issues, and
10 I'm not going to speak to that. I will defer to my
11 commissioners that are better versed in that area.

12 But my interest is -- and I hope the
13 parties take this seriously -- is anyone who has an
14 interest in this land, 12,000 acres, whether it be
15 the small lease lessee, whether it be the large
16 lessee, or whether it be the other entities, the
17 neighbors, DHHL, and KUIC, who's looking to be
18 involved, that their interest be taken seriously in
19 this period where you -- so you can come back before
20 this commission in unison and say we've worked it
21 out. That would be wonderful.

22 So I just encourage all the parties to put
23 some diligence and some time together to resolve the
24 issues before they come back before this commission.
25 Thank you.

1 **COMMISSIONER SCHEUER:** Thank you,
2 Commissioner Giovanni.

3 Is there further deliberation on the
4 motion before us? Going once, going twice. Seeing
5 none, Mr. Orodenger, will you please poll the
6 commission?

7 **MR. ORODENKER:** Thank you, Mr. Chair. The
8 motion is to defer this matter and have the parties
9 brief the specific issues raised in this hearing as
10 set forth in a letter to be prepared by staff for
11 the chair's signature.

12 Commissioner Giovanni?

13 **COMMISSIONER GIOVANNI:** Aye.

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

15 **COMMISSIONER CABRAL:** Aye.

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

17 **COMMISSIONER CHANG:** Aye.

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

19 **COMMISSIONER OHIGASHI:** Aye.

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

21 **COMMISSIONER OKUDA:** Aye.

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

23 **COMMISSIONER SCHEUER:** Aye.

24 **MR. ORODENKER:** Thank you, Mr. Chair. The
25 motion passes unanimously with six affirmative

1 votes.

2 **COMMISSIONER SCHEUER:** Thank you,
3 commissioners.

4 Thanks to all of the parties for making
5 some progress on the somewhat complex matters that
6 are before us today.

7 I believe that we have no further
8 business. Am I correct, Mr. Orodenger?

9 **MR. ORODENER:** That is correct, Mr.
10 Chair.

11 **COMMISSIONER SCHEUER:** Okay.
12 Commissioner Cabral?

13 **COMMISSIONER CABRAL:** Yes. This is
14 undoubtedly completely out of order, but do we have
15 the ability to go back to the legislature and tell
16 them that they need to clarify cleanup or
17 uncomplicate this IAL matter? It seems like --

18 **COMMISSIONER SCHEUER:** As of the third
19 Wednesday in January, yes.

20 **COMMISSIONER CABRAL:** Okay. Thank you.
21 But, no, I mean, seriously, they've passed on great,
22 beautiful concept, but it really has just been met
23 with just complicated problems.

24 **COMMISSIONER SCHEUER:** To quote a famous
25 commissioner, lipstick on a pig.

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

2 Thank you, thank you.

3 **COMMISSIONER SCHEUER:** Okay. So,
4 commissioners, parties, we have no further business.
5 And noting that, I wish you all happy holidays and
6 declare this meeting adjourned.

7 **COMMISSIONER OHIGASHI:** Merry Christmas.

8 **COMMISSIONER CHANG:** Mele Kalikimaka,
9 everyone. Aloha.

10 **COMMISSIONER SCHEUER:** Aloha. Mahalo nui
11 to everyone. Be well. Be safe.

12 **MR. ORODENKER:** Your support throughout
13 the year, we really appreciate it, so all of the
14 commissioners.

15 **COMMISSIONER CABRAL:** No, you guys do an
16 amazing job trying to herd us cats together. Even on
17 Zoom, we're not herdable.

18 **COMMISSIONER SCHEUER:** A hui hou.

19 **(Meeting concluded at 2:01 p.m.)**

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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 12th day of January, 2022.

14
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16 

17
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19 _____
20 Davilyn Payne
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