



Kamehameha Schools*



April 18, 2023

Daniel E. Orodenker, Executive Officer
Land Use Commission
235 South Beretania Street, Suite 406
Honolulu, Hawaii 96813

Subject: **Docket No. A87-610, Trustees of the Estate of Bernice Pauahi Bishop dba Kamehameha Schools, Successor Petitioner to Tom Gentry and Gentry-Pacific, Ltd.**

Dear Mr. Orodenker:

On behalf of Successor Petitioner, Trustees of the Estate of Bernice Pauahi Bishop, dba Kamehameha Schools ("KS"), we hereby submit this 2023 Annual Status Report to the State of Hawai'i Land Use Commission ("Commission").

By Findings of Fact, Conclusions of Law and Decision and Order filed May 17, 1988, the Commission reclassified approximately 1,395 acres of land situate at Waiawa, Ewa, Oahu (the "KS Property"), from the State Land Use Agricultural District to the State Land Use Urban District, subject to 10 conditions of approval. By Order dated November 30, 1990, the Commission amended Condition No. 6, and reaffirmed all other conditions to the 1988 Decision and Order (the 1988 D&O, as amended in 1990, shall hereinafter be referred to as the "Waiawa Order").¹ On November 26, 2014, the Commission issued its *Order Granting Motion for Order Amending Findings of Fact, Conclusions of Law and Decision and Order Dated May 17, 1988*, subject to 16 conditions of approval (the "2014 Order") amending the Waiawa Order to: (1) expressly authorize the use of portions of the KS Property (an area of approximately 387 acres in the northern/makai portion of the KS Property (the "Phase 1 Site"), and an area of approximately 268 acres in the mauka portion of the KS Property approximately within the Zone of Contribution (the "Phase 2 Site")) for solar farm development for an interim period not to exceed 35 years from the issuance of the 2014 Order, i.e., a period terminating as of November 26, 2049, and (2) recognize KS as the successor Petitioner in this Docket.

KS sought the Commission's approval under the 2014 Order so that it could have time to

¹ After the Commission approved the Urban District reclassification in 1988, rezoning approvals were sought from the Honolulu City Council. In 1998 the City Council passed Ordinance 98-55, amending a portion of the Development Plan Land Use Map to support the Waiawa project. Next, the City Council approved the rezoning of approximately 1,049 acres within the KS Property. Ordinance Nos. 98-01, effective January 15, 1998 (as amended by Ordinance 98-69, effective December 17, 1998) rezoned 874 acres within the KS Property from Restricted Agriculture (AG-1) to Neighborhood Business District (B1), Community Business District (B2), Low Density Apartment District (A1), Industrial-Commercial Mixed Use District (IMX1), Residential (RS) and General Preservation (P-2). Ordinance No. 03-01, effective February 12, 2003, rezoned 175.43 acres within the KS Property from AG-1 to R-5, A-1, Medium Density Apartment District (A-2) and P-2. Copies of these zoning ordinances were previously transmitted for your files.

reevaluate the development proposal that had originally been presented to the Commission, while at the same time, for an interim period, pursue a means of obtaining some financial return on the KS Property, in a manner consistent with KS' five values of: (1) culture; (2) environment; (3) education; (4) economics; and (5) community. At that time, KS determined that development of renewable energy on the KS Property would be consistent with the values, vision, mission, guiding principles and strategic goals set forth in the KS Strategic Plan 2000 - 2015, and the 2009 KS Strategic Agricultural Plan.

As previously reported, SunEdison, the intended solar developer for the solar farms approved under the 2014 Order, faced difficulty obtaining the necessary approvals from the Hawai'i Public Utilities Commission for its power purchase agreement with Hawaiian Electric Company, Inc. and shortly thereafter went bankrupt. Accordingly, KS cancelled its agreements with SunEdison, but KS remained on the lookout for new renewable energy opportunities to be located in the same areas approved by the Commission under the 2014 Order.

To that end, on July 24, 2019, KS submitted a Motion for Modification and Time Extension, requesting approval of certain amendments to the 2014 Order so that a new renewable energy developer, Waiawa Solar Power LLC, could complete the project approved under the 2014 Order located within the Phase 2 Site. In response to that Motion, on February 11, 2020, the Commission issued its *Findings of Fact, Conclusions of Law, and Decision and Order Granting with Modification Motion for Modification and Time Extension* ("2020 Order"). The 2020 Order granted an amendment to the 2014 Order to permit Waiawa Solar Power LLC to use 200 acres in the original Phase 2 Site for a solar farm to include all related utility and other infrastructure. It also ordered that the use of that site was subject to conditions "which shall replace all other conditions imposed relative to SunEdison's former Phase 2 site in the Order Granting Motion for Order Amending D&O filed on November 26, 2014."

As mentioned in the 2021 LUC Annual Report (and in KS' 2019 Motion and the 2020 Order), KS identified a second renewable energy developer (Waiawa Phase 2 Solar, LLC ("WP2S"), a subsidiary of The AES Corporation), to pursue the solar farm the Commission already approved for the Phase 1 Site under the 2014 Order. As such, shortly after submitting the 2021 LUC Annual Report, on December 10, 2021, KS filed a Motion for Modification, Time Extension, and Release and Modification of Conditions, requesting approval of certain amendments to the 2014 Order for the solar farm as proposed by WP2S (the "2021 Motion"). The Commission held hearings on the 2021 Motion from March through June 2022.

Subsequently on June 30, 2022, the Commission, by Findings of Fact, Conclusions of Law and Decision and Order Granting with Modification Motion for Modification, Time Extension, and Release and Modification of Conditions of Order Dated November 26 2014 (the "2022 Order"), granted the KS 2021 Motion with modifications and amended certain conditions of the 2014 Order relating to the 387-acre Phase 1 Site and imposed new conditions.

A matrix of all of the Commission's conditions of approval in this Docket, and the status of those conditions, is enclosed. Please feel free to contact me at (808) 523-6200 if you have any questions regarding this report.

Very truly yours,



Michelle Swartman
KAMEHAMEHA SCHOOLS
Planning & Development Manager, Commercial Real Estate

Daniel E. Orodener, Executive Officer
Land Use Commission

Enclosure

cc:

Scott Glenn, Director, Office of Planning and Sustainable Development

Dawn Takeuchi Apuna, Director, Honolulu Department of Planning and Permitting

Chris J. Sadayasu, Director of Business, Economic Development and Tourism (DBEDT)

State Land Use Commission Docket No.: A87-610
2023 Report re Compliance with Conditions of Approval

Here follows three matrices for each of the three Land Use Commission orders that are applicable to all or limited portions of the Petition Area, those being:

1. The Waiawa Order: Findings of Fact, Conclusions of Law and Decision and Order, filed May 17, 1988 (the "1988 Order"), as amended on November 30, 1990, as to Condition No. 6 of the 1988 Order, by that certain Order Granting Motion to Amend Condition No. 6 of the Decision and Order Dated May 17, 1988 (the "1990 Order"). The 1988 Order and the 1990 Order are collectively herein referred to as the "Waiawa Order."
2. The 2022 Order: Order Granting With Modification Motion for Modification, Time Extension, and Release and Modification of Conditions of Order Dated November 26, 2014, filed June 30, 2022 (the "2022 Order").
3. The 2020 Order: Findings of Fact, Conclusions of Law, and Decision and Order Granting with Modification Motion for Modification and Time Extension, filed February 11, 2020 (the "2020 Order").

Conditions Nos. 1 - 10 of the 1988 Order, as amended by the 1990 Order as to Condition No. 6 (the "Waiawa Order")¹			
No.	Condition	Status	Comments
1. (1988)	A study funded by the U.S. Department of the Navy to review the potential for groundwater contamination resulting from the urbanization of the Property shall be completed prior to any site development and construction unless the Department of Health after consultation with the United States Navy and after review of the proposed study scope makes a determination that development and construction within a specified area will not cause groundwater contamination to wells in the area. Petitioner shall not	Satisfied	Condition 1 has been satisfied. In compliance with Condition 1, the State Department of Health ("DOH") prepared a study ("Report to the Office of State Planning by the Department of Health Safe Drinking Water Branch on the Delineation of the Hydrologic Zone of Contribution for the U.S. Navy Waiawa Shaft" (Revised Dec. 1990)) ("ZOC Study"). The ZOC Study was undertaken to identify the zone of contribution of the Waiawa Shaft. The Navy concurred with the methodology of the ZOC Study and the location of the zone of contribution, and

¹ See FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION AND ORDER, filed May 17, 1988 (the "1988 Order"), as amended on November 30, 1990, as to Condition No. 6 of the 1988 Order, by that certain ORDER GRANTING MOTION TO AMEND CONDITION NO. 6 OF THE DECISION AND ORDER DATED MAY 17, 1988 (the "1990 Order"). The 1988 Order and the 1990 Order are collectively herein referred to as the "Waiawa Order."

**Conditions Nos. 1 - 10 of the 1988 Order, as amended by the 1990 Order as to Condition No. 6
(the "Waiawa Order")¹**

No.	Condition	Status	Comments
	proceed with the project until the study shows to the satisfaction of the Department of Health that groundwater contamination will not occur as a result of the proposed project, or until the Department of Health makes a determination that development or partial development may be allowed.		the DOH sent a copy of the ZOC Study to the State Office of Planning on January 2, 1991.
2. (1988)	Any urban development within the Property shall be subject to further review and subsequent approval by the Department of Health. The Department of Health may require appropriate mitigated measures and conditions relating to the proposed development's impact on the groundwater resources in the area.	On-going	Successor Petitioner acknowledges this condition and continues to comply. In 2018, KS consulted with the DOH about KS's proposed master plan development, including development within the Petition Area. DOH confirmed the proposed development would be acceptable, subject to several standard conditions related to the various divisions within DOH.
3. (1988)	For the first 1,000 dwelling units which may be constructed on the Property, Petitioner shall provide housing opportunities for low, low-moderate, and moderate income Hawaii residents by offering for sale at least thirty percent (30%) of the units at prices which families with an income range of 80 to 120 percent of Oahu's median income can afford and thirty percent (30%) of the units which families with an income range of 120 to 140 percent of Oahu's median income can afford. This condition may be fulfilled through projects, under such terms as may be mutually agreeable, between Petitioner and the Housing Finance and Development Corporation of the State, or other appropriate governmental agency. This condition may also be fulfilled, with the approval of the Housing	On-going	Successor Petitioner shall comply with this condition.

**Conditions Nos. 1 - 10 of the 1988 Order, as amended by the 1990 Order as to Condition No. 6
(the "Waiawa Order")¹**

No.	Condition	Status	Comments
	Finance and Development Corporation, through the construction of rental units to be made available at rents which families in the specified income ranges can afford.		
4. (1988)	For the balance of the Property, the affordable housing requirements shall be satisfied in a manner that meets with the approval of the City and County of Honolulu and the State Housing Finance and Development Corporation. Said requirements shall take into consideration affordable on-site or off-site housing units or cash payments that satisfy the then current housing needs, or other necessary or desirable community facilities as determined above.	On-going	Successor Petitioner shall comply with this condition.
5. (1988)	Petitioner shall fund and construct the necessary improvements as determined by the State Department of Transportation which would mitigate impacts from the subject project. These improvements shall be implemented on a schedule acceptable to and approved by the Department of Transportation.	Partially satisfied	No traffic impacts have occurred from development within the Petition Area. Nevertheless, as stated in the July 1, 2013 annual report to the Commission, substantial steps have been taken toward satisfaction of this condition. As reported to the Commission, lands valued in excess of \$637,000 were dedicated for the construction of Waipio Interchange. Prior to 2012, \$1.4 million dollars were paid by the developer to the State of Hawaii for improvements to Ka Uka Boulevard and for the construction of HOV lanes between the Waiawa and Waipio Interchanges of the H-2 Freeway.
6. (1990)	Petitioner shall appoint and fund a transportation manager whose function is the formulation, use, and continuation of alternative transportation opportunities that would maximize the use of existing and proposed transportation systems. This will include construction	Satisfied and on-going	As previously reported, KS has been an active participant in the Leeward Oahu Transportation Management Association (LOTMA), which is a regional program that seeks to promote alternative transportation opportunities and to optimize the capacity and use of existing and proposed transportation

**Conditions Nos. 1 - 10 of the 1988 Order, as amended by the 1990 Order as to Condition No. 6
(the "Waiawa Order")¹**

No.	Condition	Status	Comments
	<p>and operation of a park and ride facility or other activities to encourage transit use or ridesharing. These activities and facilities shall be implemented on a schedule acceptable to and approved by the State Department of Transportation.</p> <p>In the alternative, Petitioner may participate in a regional program for the transportation management with other developers and/or landowners. This program shall address the formulation, use and continuation of alternative transportation opportunities that would optimize the use of existing and proposed transportation systems.</p>		<p>systems. While LOTMA has become somewhat dormant, KS continues to be a willing participant with LOTMA or any other suitable programs for regional transportation management. In addition, KS has retained a consultant to explore transportation management solutions for the anticipated KS master plan.</p>
7. (1988)	<p>Petitioner shall participate in an air quality monitoring program as specified by the State Department of Health.</p>	On-going	<p>Successor Petitioner shall comply with this condition.</p>
8. (1988)	<p>Petitioner shall immediately stop work and contact the State Historic Preservation Office should any archaeological resources such as artifacts, shell, bone, or charcoal deposits, human burial, rock or coral alignments, pavings or walls be encountered during the project's development.</p>	On-going	<p>Successor Petitioner will comply with this condition.</p>
9. (1988)	<p>Petitioner shall provide public access to the Conservation District land mauka of the Property.</p>	Satisfied	<p>There are no Conservation District lands adjacent to the KS Property. Furthermore, as determined by the State Department of Land and Natural Resources by letter dated June 21, 2000, the only feasible means of accessing any Conservation District lands is via the Waiawa Correctional Facility, and there are no public hiking trails or hunting areas that required public access over the KS Property.</p>

**Conditions Nos. 1 - 10 of the 1988 Order, as amended by the 1990 Order as to Condition No. 6
(the "Waiawa Order")¹**

No.	Condition	Status	Comments
10. (1988)	Petitioner shall provide annual reports to the Land Use Commission, the Department of Business and Economic Development and the City and County of Honolulu Department of General Planning in connection with the status of the project and Petitioner's progress in complying with the conditions imposed.	On-going	Successor Petitioner has and will continue to comply with this condition.

Conditions Nos. 1 – 18 of the 2022 Order²

No.	Condition	Status	Comments
1. (2022)	Revised Master Plan. Petitioner shall submit to the Commission a revised master plan and schedule for development for the approximately 1,395-acre Petition Area by February 11, 2025; provided, however, that this condition may be satisfied by publication of a Draft Environmental Impact Statement that addresses the Petition Area prior to February 11, 2025.	On-going	Petitioner shall comply with this condition.
2. (2022)	Access to the Waiawa Correctional Facility. Petitioner shall cause the solar farm facility operator to ensure that the construction and installation of the solar farm within the KS Property shall not prevent roadway access to the Waiawa Correctional Facility.	On-going	The developer of the Updated Phase 1 Project is Waiawa Phase 2 Solar, LLC (“WP2S”), a wholly owned indirect subsidiary of The AES Corporation. Petitioner shall cause WP2S to comply with this condition.
3. (2022)	Previously Unidentified Burials and Archaeological/Historic Sites. Petitioner shall implement, or cause the solar farm operator to implement, the Preservation Plan approved by SHPD by letter dated September 14, 2015 within the vicinity of the Phase 1 Site prior to operation. In the event that historic resources, including human skeletal remains, are identified during construction activities, all work shall cease in the immediate vicinity of the find, the find shall be protected from additional disturbance, and the SHPD, shall be contacted immediately. Without any limitation to any other condition found herein, if any burials or archaeological or historic sites, such as artifacts, marine shell concentrations, charcoal deposits, stone platforms, paving, and walls not previously identified in studies referred to herein, are discovered	On-going	Interim fencing been erected per SHPD approved Preservation Plan dated September 14, 2015. Permanent fencing will be installed upon completion of construction.

² See ORDER GRANTING WITH MODIFICATION MOTION FOR MODIFICATION, TIME EXTENSION, AND RELEASE AND MODIFICATION OF CONDITIONS OF ORDER DATED NOVEMBER 26, 2014, filed June 30, 2022 (the “2022 Order”).

Conditions Nos. 1 – 18 of the 2022 Order²

No.	Condition	Status	Comments
	during the course of construction of the solar farm project, all construction activity in the vicinity of the discovery shall stop until the issuance of an archaeological clearance from the SHPD that mitigative measures have been implemented to its satisfaction.		
4. (2022)	Protection and Preservation of Native Hawaiian Traditional and Customary Practices (Article XII, Section 7). Petitioner has conducted an archeological inventory survey, an archaeological preservation plan, a cultural impact assessment, cultural resources preservation plan, and an ethno-historic study that included the Petition Area. Although no cultural resources or practices have been identified within the Petition Area that would be adversely impacted by the proposed interim solar farm, this finding is limited to the Phase 1 Site (Parcels A and B), and the Phase 2 Site within the Petition Area.	On-going	Petitioner acknowledges the limitations expressed in this condition.
5. (2022)	Aircraft Hazard. If glint or glare from the photovoltaic array creates a hazardous condition for pilots, Petitioner shall cause the solar farm facility operator to be prepared to immediately mitigate the hazard upon notification by the Department of Transportation Airports Division or the Federal Aviation Administration. If the PV systems emit RFI to aviation dedicated radio signals, disrupting the reliability of air- to-ground communications, Petitioner shall cause the solar farm facility operator to be prepared to immediately mitigate the hazard upon notification by the DOT, Airports Division, or the FAA.	On-going	Petitioner shall ensure that WP2S complies with this condition.

Conditions Nos. 1 – 18 of the 2022 Order²

No.	Condition	Status	Comments
6. (2022)	Traffic Impacts. Prior to the start of construction of the Updated Phase 1 Project, Petitioner shall cause the solar farm operator to submit a traffic construction management plan for review and acceptance by the State Department of Transportation.	On-going	A Transportation Management Plan was submitted to Hawaii Department of Transportation, Highways Division, on March 30, 2023. It has since been routed to the HDOT Planning Branch for review and approval.
7. (2022)	Development Schedule. Both portions of the Updated Phase 1 Project solar farm (Parcel A and Parcel B) shall be substantially completed within five (5) years from the date of the Commission’s issuance of this Decision and Order.	On-going	It is understood that WP2S must substantially complete the Updated Phase 1 Project within the stated timeframes. WP2S received the required CUP Minor permit approval from the City Department of Planning and Permitting on January 6, 2023. Currently, WP2S is in the process of design review with DPP. Assuming timely issuance of all necessary permits, WP2S informed KS that they anticipate the start of construction possibly as early as June 2023
8. (2022)	Interim and Temporary Use of the Petition Area. The interim and temporary use of the approximately 387-acre portion of the Petition Area as shown in Petitioner’s Revised Master Plan and Schedule for Development filed on October 7, 2019, shall be limited to a utility-scale solar energy development, or solar farm. However, this proposed Updated Phase 1 Project, and the previously approved Phase 2 solar farm, is not “substantial commencement with use of the land in accordance with subject representations” pursuant to HRS §205-4(g). No other use shall be permitted without the prior written approval of the Commission, except for “compatible agricultural activities” as that term is used in HRS §205-4.5(a)(21)(A).	On-going	Petitioner shall comply with this condition.
9. (2022)	Timeframe of Interim Use. The interim use of Parcel A for the proposed solar farm, including any and all permitting, construction, operation, and	On-going	Petitioner is aware of these time limitations and shall require the solar farm developer to comply.

Conditions Nos. 1 – 18 of the 2022 Order²

No.	Condition	Status	Comments
	<p>decommissioning activities associated with the solar farm, shall not exceed December 31, 2044, without the prior written approval of the Commission. The interim use of Parcel B for the proposed solar farm, including any and all permitting, construction, operation, and decommissioning activities associated with the solar farm, shall not exceed December 31, 2054, without the prior written approval of the Commission; provided, however, that in the event the solar farm project owner fails to secure a PUC-approved extension to the PPA, or a new PPA, within 12 months after the expiration of the current PPA, the project owner will immediately commence with the decommissioning of the solar farm on Parcel B and complete decommissioning within two years after the expiration of the current PPA.</p>		
<p>10. (2022)</p>	<p>Motion to Amend. Petitioner shall file a motion to amend the Waiawa Order by December 31, 2030.</p>	<p>On-going</p>	<p>Petitioner acknowledges the obligations under this condition and will comply.</p>
<p>11. (2022)</p>	<p>Waiawa Master Plan Infrastructure Deadline. Petitioner shall complete construction of the backbone infrastructure for the proposed Waiawa Master Plan Phase A, consisting of the primary roadways and access points, internal roadways, on-and off- site water and electrical system improvements, and storm water/drainage and other utility system improvements, by December 31, 2030. In addition, Petitioner shall complete construction of similar backbone infrastructure for the proposed Waiawa Master Plan Phase B by December 31, 2038.</p>	<p>On-going</p>	<p>Petitioner acknowledges the obligations under this condition and will comply.</p>

Conditions Nos. 1 – 18 of the 2022 Order²

No.	Condition	Status	Comments
12. (2022)	<p>Decommissioning of the Solar Farm. Both portions of the Updated Phase 1 Project solar farm (Parcel A and Parcel B) shall be decommissioned following their respective operational timeframes. The decommissioning activities shall include, but not be limited to, the complete removal of the foundational piers and modules and all associated components. The decommissioning shall be in accordance with all laws and rules in effect at the time, potentially including the Department of Health HAR Chapter 11-273.1.</p> <p>Any other future uses of the Petition Area, including future uses of the solar farm sites following the decommissioning of the solar farms, shall require the filing of a motion to amend the Decision and Order with the Commission. Such motion to amend shall include a revised master development plan of the proposed uses and shall further include, but not be limited to, a revised Traffic Impact Analysis Report, Engineering Report, Socio-Economic Analysis Report, and AIS (if required). As applicable, said future uses of the Petition Area shall also be subject to the environmental review process promulgated under HRS Chapter 343 and its related administrative rules.</p>	On-going	Petitioner shall require the solar farm developer, WP2S, to comply with these decommissioning obligations. Petitioner acknowledges the obligations required to be satisfied for any future uses of the Petition Area.
13. (2022)	<p>Wildlife Protection. The Petitioner shall cause the operator of the Updated Phase 1 Project to implement the following measures regarding landscaping vegetation and the protection of endangered Hawaiian hoary bat, Hawaiian short-eared owl, and endangered</p>	On-going	Construction of the Updated Phase 1 Project has not yet started. However, WP2S has informed KS that the project will be in compliance with all parts of condition 13. WP2S also provided the following information regarding the wildlife protection measures:

Conditions Nos. 1 – 18 of the 2022 Order²

No.	Condition	Status	Comments
	<p>and threatened Hawaiian water bird and shorebird species at the Phase 1 Site:</p> <ul style="list-style-type: none"> a. If landscaping is installed as part of the solar farm project, non-invasive plants and native plant species shall be utilized to the maximum extent practicable, and a landscape plan describing the non-invasive plants and native plant species to be utilized shall be submitted to the Department of Planning and Permitting for approval prior to the issuance of any grading permit. b. Invasive species minimization measures shall be implemented to avoid the unintentional introduction or transport of new invasive species to the area. This would include utilizing on-site gravel, rock, and soil (or purchasing from a local supplier) when practicable, utilizing certified, weed-free seed mixes; and washing construction equipment and/or visually inspecting for excessive debris, plant materials, and invasive or harmful non-native species. c. To minimize the spread of the fungal pathogen responsible for Rapid Ohia Death (CTAHR 2020), the most recent Rapid Ohia Death decontamination protocols recommended by United States Fish and Wildlife Service (“USFWS”) and the Department of Land and 		<p>Regarding landscaping specifically, no additional landscaping is expected to be installed as part of the Updated Phase 1 Project, as the existing topography and vegetation provides the necessary screening. A landscape screening plan noting the existing vegetation to be maintained as a visual buffer was submitted as part of the building permit plan set to the Department of Planning and Permitting in February 2023.</p> <p>Pursuant to item (f), WP2S’s biological consultant, Tetra Tech, provided wildlife education and observation program materials on February 10, 2023, that addressed the various subcomponents of this condition under (b) through (f) and (m) through (n). The wildlife education and observation program materials will be included in the Site Specific Safety Orientation for all construction and regular on-site staff. All construction and on-site staff will be required to attest to compliance with the program requirements.</p> <p>Regarding item (k), WP2S has confirmed that overhead lines will be minimized to the extent possible.</p> <p>Regarding item (l), a pre-construction pueo survey based on the Pueo Project protocol was conducted by Tetra Tech over four dates between March 5 and March 22, 2023. No pueo were detected.</p>

Conditions Nos. 1 – 18 of the 2022 Order²

No.	Condition	Status	Comments
	<p>Natural Resources, Division of Forestry and Wildlife (“DOFAW”) shall be implemented.</p> <p>d. No trees or shrubs greater than 15 feet tall shall be disturbed, trimmed or removed during the Hawaiian hoary bat birthing and pupping season (June 1 through September 15).</p> <p>e. Any fences that are erected as part of the Project shall not have barbed wire to prevent entanglements of the Hawaiian hoary bat.</p> <p>f. A wildlife education and observation program (WEOP) shall be implemented for all construction and regular on-site staff. Staff shall be trained to identify listed species that may be found on-site (including Hawaiian hoary bat, pueo, Hawaiian seabirds and waterbirds) and to take appropriate steps if these species are observed. If a federally or state-listed species is observed to be impacted by the project, the USFWS and DOFAW shall be notified, and a systematic post- construction monitoring program shall be developed and implemented.</p> <p>g. Construction activities shall be restricted to daylight hours as much as possible during the seabird peak fallout period (September 15- December 15) to avoid the use of nighttime lighting that could attract seabirds.</p>		

Conditions Nos. 1 – 18 of the 2022 Order²

No.	Condition	Status	Comments
	<p data-bbox="302 370 978 472">h. Speed limits shall be established and enforced within the Phase 1 Site and along the access road to the Phase 1 Site within the Petition Area.</p> <p data-bbox="302 516 978 911">i. Should nighttime construction be required during the seabird peak fallout period, a biological monitor shall be present in the construction area from approximately 0.5-hour before sunset to 0.5-hour after sunrise to watch for the presence of seabirds. Should a seabird (or other listed species) be observed and appear to be affected by the lighting, the monitor shall notify the construction manager to reduce or turn off construction lighting until the individual(s) move out of the area.</p> <p data-bbox="302 954 978 1235">j. Any on-site lighting shall be fully shielded, triggered by motion detector, and fitted with light bulbs having a correlated color temperature of four thousand Kelvin or less, to the extent possible. Lighting shall also be directed away from the solar arrays to minimize the potential for reflection and shall only be used when necessary.</p> <p data-bbox="302 1279 978 1382">k. Construction of overhead lines shall be minimized to reduce the collision risk for seabird species.</p>		

Conditions Nos. 1 – 18 of the 2022 Order²

No.	Condition	Status	Comments
	<p>l. Prior to clearing vegetation within the Phase 1 Site, pre-construction pueo surveys shall be conducted by a qualified biologist following the Pueo Project survey protocol.</p> <p>m. If a pueo is observed in the Phase 1 Site at any time (prior to construction, during construction, or during operation), all activities in the immediate area shall stop immediately. The location of the bird should be reported to a designated representative, and a qualified biologist should check the area for the presence of a pueo nest. If a ground nest or a pueo nesting on the ground is observed at any time (prior to construction, during construction, or during operation), an approximately 100-foot buffer shall be established around the nest and marked in the field by a qualified biologist. DOFAW should be contacted immediately. If the nest is confirmed as a pueo nest, no work should occur in the buffer area until pueo nesting is complete. No vegetation clearing shall occur until pueo nesting ceases.</p> <p>n. No rodent baiting shall take place within the Phase 1 Site to prevent secondary poisoning from toxins in pueo prey.</p>		
14. (2022)	Compliance with Representations. Petitioner shall cause the solar farm operator to develop and operate the Updated Phase 1 Project, including the implementation	On-going	Construction of the Updated Phase 1 Project has not yet started. However, WP2S has informed KS that once construction commences, the project is expected to be in compliance with

Conditions Nos. 1 – 18 of the 2022 Order²

No.	Condition	Status	Comments
	of measures to mitigate potential impacts of the development, in substantial compliance with the representations made to the Commission as reflected in this Decision and Order. Such mitigation measures include, but are not limited to, the use of temporary and permanent BMPs to ensure that the development and operation of the solar farm do not result in an increase in stormwater runoff that adversely impacts downstream properties. Failure to do so may result in reversion of the Petition Area to its former classification, or change to a more appropriate classification.		this condition. Temporary and permanent BMPs will be installed to mitigate adverse impacts of stormwater runoff from the project.
15. (2022)	Notice of Change of Ownership. Petitioner shall give notice to the Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interests in the Petition Area, prior to development of the Petition Area.	On-going	Petitioner shall comply with this condition.
16. (2022)	Annual Reports. Petitioner shall timely provide without any prior notice, annual reports to the Commission, Office of Planning and Sustainable Development, and the Department of Planning and Permitting in connection with the status of the subject project and Petitioner's progress in complying with the conditions imposed herein. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.	On-going	Petitioner shall comply with this condition.
17. (2022)	Release of Conditions. The Commission may fully or partially release the conditions provided herein as to all or any portion of the Petition Area upon timely motion	N/A	Petitioner understands that it may pursue through the Commission modifications to and releases of conditions.

Conditions Nos. 1 – 18 of the 2022 Order²

No.	Condition	Status	Comments
	and upon the provision of adequate assurance of satisfaction of these conditions by Petitioner.		
18. (2022)	Notice of Imposition of Conditions. Within seven (7) days of the issuance of the Commission’s Decision and Order granting the Motion to Amend, Petitioner shall: (a) record with the Bureau of Conveyances a statement that the Petition Area is subject to conditions imposed herein by the Commission in the granting of the Motion to Amend; and (b) shall file a copy of such recorded statement with the Commission.	Satisfied	Petitioner recorded a Notice of Imposition of Conditions by the Land Use Commission on July 7, 2022 (Bureau of Conveyances Document No. A-82230778).Petitioner then recorded a Declaration of Conditions Imposed by the State Land Use Commission on August 24, 2022 (Bureau of Conveyances Document No. A-82710697)

**Conditions Nos. 1 - 18 of the 2020 Order, Making Certain Amendments to the 2014 Order
Pertaining to the Phase 2 Solar Project³**

No.	Condition	Status	Comments
1. (2020)	Revised Master Plan. Petitioner shall submit to the Commission a revised master plan and schedule for development for the approximately 1,395-acre KS Property within five (5) years from the date of the Commission's issuance of an order approving the Motion to Amend.	Satisfied	Satisfied. KS submitted its revised master plan and schedule to the Commission on October 6, 2019. KS presented the master plan and development schedule at the Commission's meeting on January 9, 2020.
2. (2020)	Access to the Waiawa Correctional Facility. Petitioner shall cause the solar farm facility operator to ensure that the construction and installation of the solar farm within the KS Property shall not prevent roadway access to the Waiawa Correctional Facility.	On-going	The developer of the Phase 2 Solar Project is Waiawa Solar Power, LLC, a wholly owned indirect subsidiary of Clearway Energy Group LLC ("WSP"). Successor Petitioner will ensure that WSP complies with this condition.
3. (2020)	<p>Previously Unidentified Burials and Archaeological/Historic Sites. A supplemental AIS for the entire 1,395-acre Petition Area shall be prepared by a qualified archaeologist to determine potential impacts and to ensure that appropriate mitigation is implemented as needed. The supplemental AIS shall be submitted to the SHPD and accepted prior to the start of construction.</p> <p>In the event that historic resources, including human skeletal remains, are identified during construction activities, all work shall cease in the immediate vicinity of the find, the find shall be protected from additional disturbance, and the SHPD, O'ahu Island Section, shall be contacted immediately. Without any limitation to any other condition found herein, if any burials or archaeological or historic sites, such as artifacts, marine</p>	Satisfied and on-going	<p>An Archaeological Inventory Survey of 1,395 Acres of Kamehameha Schools' Lands, Waiawa and Waipi'o Ahupua'a, 'Ewa District, Island of O'ahu was prepared by TCP Hawai'i LLC, and accepted by SHPD by letter dated April 24, 2015.</p> <p>SHPD approved the Archaeological Site Preservation Plan for State Site No. 50-80-09-2273 by letter dated September 14, 2015.</p> <p>WSP has completed its construction of the Phase 2 Solar Project in compliance with this condition. Successor Petitioner will continue to comply with the on-going portions of this condition.</p>

³ See Findings of Fact, Conclusions of Law, and Decision and Order Granting with Modification Motion for Modification and Time Extension, filed February 11, 2020 (the "2020 Order").

**Conditions Nos. 1 - 18 of the 2020 Order, Making Certain Amendments to the 2014 Order
Pertaining to the Phase 2 Solar Project³**

No.	Condition	Status	Comments
	shell concentrations, charcoal deposits, stone platforms, paving, and walls not previously identified in studies referred to herein, are discovered during the course of construction of the solar farm project, all construction activity in the vicinity of the discovery shall stop until the issuance of an archaeological clearance from the SHPD that mitigative measures have been implemented to its satisfaction.		
4. (2020)	Aircraft Hazard. If glint or glare from the PV array creates a hazardous condition for pilots, Petitioner shall cause the solar farm facility operator to be prepared to immediately mitigate the hazard upon notification by the DOT, Airports Division, or the FAA. If the PV systems emit RFI to aviation dedicated radio signals, disrupting the reliability of air-to-ground communications, Petitioner shall cause the solar farm facility operator to be prepared to immediately mitigate the hazard upon notification by the DOT, Airports Division, or the FAA.	On-going	Successor Petitioner will ensure that WSP complies with this condition.
5. (2020)	Traffic Impacts. Petitioner shall submit a Traffic construction management plan for review and acceptance by the DOT prior to the start of construction.	Satisfied	Satisfied. WSP submitted a construction traffic management plan to the State Department of Transportation, which was accepted and approved by the State Department of Transportation on May 25, 2021.
6. (2020)	Development Schedule. The solar farm shall be substantially completed within five (5) years from the date of the Commission's issuance of this Decision and Order.	Satisfied.	Satisfied. Waiawa Solar Power LLC has substantially completed construction of the Phase 2 Solar Project and commenced commercial operations.
7. (2020)	Interim Use of the Petition Area. The interim use of the approximately 200-acre portion of the Petition Area as shown in Petitioner's Revised Master Plan and	On-going	The applicable portion of the Petition Area will be utilized in accordance with this condition.

**Conditions Nos. 1 - 18 of the 2020 Order, Making Certain Amendments to the 2014 Order
Pertaining to the Phase 2 Solar Project³**

No.	Condition	Status	Comments
	Schedule for Development filed on October 7, 2019, shall be limited to a utility-scale solar energy development, or solar farm. No other use shall be permitted without the prior written approval of the Commission.		
8. (2020)	Timeframe of Interim Use. The interim use of the approximately 200-acre portion of the Petition Area as shown in Petitioner's Revised Master Plan and Schedule for Development filed on October 7, 2019, for the proposed solar farm, including all permitting, construction, operation, and decommissioning activities associated with the solar farm, shall not exceed November 26, 2049. If WSP or its successor can demonstrate before November 26, 2049, that it has secured a PUC-approved PPA for extension of the operation of the solar farm and a lease extension with Petitioner, the interim use of the approximately 200-acre site for the proposed solar farm shall be extended to December 31, 2059.	On-going	Petitioner is aware of these time limitations and shall require the solar farm developer, WSP, to comply..
9. (2020)	Waiawa Master Plan Infrastructure Deadline. Petitioner shall complete construction of the backbone infrastructure for the proposed Waiawa Master Plan Phase A, consisting of the primary roadways and access points, internal roadways, on- and off-site water and electrical system improvements, and stormwater/drainage and other utility system improvements, by December 31, 2030.	On-going	Successor Petitioner acknowledges the obligations under this condition and will comply.
10. (2020)	Metes and Bounds Map Description. The proposed solar farm shall be limited to the acreage and boundaries identified in Petitioner's Revised Master	Satisfied	Satisfied. A map and metes and bounds of the Solar Phase 2 solar farm site was submitted to the Commission on February 2, 2021.

**Conditions Nos. 1 - 18 of the 2020 Order, Making Certain Amendments to the 2014 Order
Pertaining to the Phase 2 Solar Project³**

No.	Condition	Status	Comments
	Plan and Schedule for Development filed on October 7, 2019. Petitioner shall provide a metes and bounds map and description of the solar farm site to the Commission within one year from the date of this Decision and Order.		
11. (2020)	Groundwater Resource Protection. The operator of the solar farm to be developed in the central/eastern portion of the Petition Area shall implement mitigative measures to prevent the introduction of contamination to the ZOC from the solar farm's operations, consistent with the representations made and relied upon by the DOH in its letter of March 28, 2019, to Petitioner and the Navy in its letter to the solar farm operator dated September 30, 2019, in reference to the solar farm operator's representations in its letter dated July 22, 2019.	On-going	Successor Petitioner will ensure that the Phase 2 Solar Project developer continues to comply with this condition.
12. (2020)	Decommissioning of the Solar Farm. The solar farm shall be decommissioned following its operational timeframe. The decommissioning activities shall include, but not be limited to, the complete removal of the foundational piers and modules and all associated components. All metal components shall be recycled to the extent possible and no solar farm components shall be disposed of in any landfill in the State of Hawaii. Any future use of the Petition Area following the decommissioning of the solar farm shall be subject to the environmental review process promulgated under HRS chapter 343, as applicable, and shall require the filing of a motion to amend the Decision and Order with the Commission. Such motion to amend shall include a	On-going	Petitioner shall require the Phase 2 Solar Project developer to comply with these decommissioning obligations. Petitioner acknowledges the obligations required to be satisfied for any future uses of the Phase 2 Solar Project site post-decommissioning.

**Conditions Nos. 1 - 18 of the 2020 Order, Making Certain Amendments to the 2014 Order
Pertaining to the Phase 2 Solar Project³**

No.	Condition	Status	Comments
	revised master development plan of the proposed use and shall further include, but not be limited to, a revised Traffic Impact Analysis Report, Engineering Report, Socio-Economic Analysis Report, Environmental Report, and AIS.		
13. (2020)	Compliance with Representations. Petitioner shall cause the solar farm facility operator to develop and operate the solar farm, including the implementation of measures to mitigate potential impacts of the development, in substantial compliance with the representations made to the Commission as reflected in this Decision and Order. Such mitigation measures include, but are not limited to, the use of temporary and permanent BMPs to ensure that the development and operation of the solar farm do not result in an increase in stormwater runoff that adversely impacts downstream properties. Failure to do so may result in reversion of the Petition Area to its former classification or change to a more appropriate classification.	On-going	Successor Petitioner will ensure that the Phase 2 Solar Project developer continues to comply with this condition.
14. (2020)	Notice of Change of Ownership. Petitioner shall give notice to the Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interests in the Petition Area, prior to development of the Petition Area.	On-going	Successor Petitioner will comply with this condition.
15. (2020)	Annual Reports. Petitioner shall timely provide without any prior notice, annual reports to the Commission, OP, and the DPP in connection with the status of the subject project and Petitioner's progress in complying with the conditions imposed herein. The	On-going	Successor Petitioner has and will continue to comply with this condition.

**Conditions Nos. 1 - 18 of the 2020 Order, Making Certain Amendments to the 2014 Order
Pertaining to the Phase 2 Solar Project³**

No.	Condition	Status	Comments
	annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.		
16. (2020)	Release of Conditions. The Commission may fully or partially release the conditions provided herein as to all or any portion of the Petition Area upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by Petitioner.	N/A	Petitioner understands that it may pursue through the Commission modifications to and releases of conditions.
17. (2020)	Notice of Imposition of Conditions. Within seven (7) days of the issuance of the Commission's Decision and Order for the subject reclassification, Petitioner shall: (a) record with the Bureau of Conveyances a statement that the Petition Area is subject to conditions imposed herein by the Commission in the granting of this Decision and Order; and (b) shall file a copy of such recorded statement with the Commission.	Satisfied	On February 18, 2020, Successor Petitioner filed a Notice of Imposition of Conditions with the Bureau of Conveyances as Document No. A73530848.
18. (2020)	Recordation of Conditions. Petitioner shall record the conditions imposed herein by the Commission with the Bureau of Conveyances pursuant to HAR § 15-15-92.	Satisfied	On April 8, 2020, Successor Petitioner filed a Declaration of Conditions with the Bureau of Conveyances as Document No. A74030801.