

K. STATE AND COUNTY PLANS AND PROGRAMS; CONFORMANCE TO URBAN DISTRICT STANDARDS

115. The Petition Area is located within the SLU Urban District.

116. The Petition Area is not located within the City and County's Special Management Area and "complies with and supports the objectives of the Hawai'i Coastal Zone Management Program."

117. Parcel 52 is designated in the SLU Urban District and is zoned as AG-1 (Restricted Agricultural) by the City and County of Honolulu.

118. In the 1996 Order, the Commission made specific findings that Urban designation of the Petition Area, including Parcel 52, is consistent with the Hawai'i State Plan. Parcel 52 is within the Urban Community Boundary established under the 2002 Central O'ahu Sustainable Communities Plan.

119. The solar farm use is consistent with the Urban designation.

120. The Project is a Type B utility installation, permissible by Conditional Use Permit-minor in all zoning districts under the City and County's Land Use Ordinances.

L. NEED FOR THE PROPOSED DEVELOPMENT

121. The Project is consistent with the Hawai'i Clean Energy Initiative, which aims to achieve 70 percent clean energy by the year 2030, 40 percent of which is meant to come from locally generated renewable sources, and with Act 97, effective June 2015, which requires 100% of Hawai'i's electricity to come from renewable sources by 2045. And its supportive of Act 23 of 2020, which effectively phases Hawai'i out of coal-generated energy by 2022.

122. The Project is in conformance with the Hawai'i State Plan, HRS §226-18, and the Department of Business, Economic Development and Tourism's ("DBEDT") renewable energy goals.

123. The Project is in conformance with the Hawai‘i 2050 Sustainability Plan that serves as the State’s sustainability and climate strategic action plan; and guides the coordination and implementation of Hawai‘i’s sustainability and climate adaptation goals, principles, and policies, pursuant to HRS §226-65.

124. Parcel 52 cannot feasibly be developed as Royal Kunia Phase II, Increment 3 until the infrastructure for Royal Kunia Phase II, Increments 1 and 2 is developed.

M. SOCIAL AND ECONOMIC IMPACTS

125. Over the operational life of the 2020 Solar Project, annual avoidance of roughly 10.6 million gallons of imported fuel oil and a reduction in emissions of 95,400 tons of carbon dioxide will occur from the renewable energy generated by the Project.

126. The 2020 Solar Project is anticipated to generate approximately 50 jobs during the majority of the two-year construction period; with a high of 175 workers when construction is at its peak. Once the Project is completed it is estimated to require approximately five full-time employees. Approximately 95% of the jobs are anticipated to be filled by local labor.

127. Implementing the interim solar farm use on Parcel 52 will allow RKL and Ho‘ohana to make use of the land that is low-impact and environmentally friendly, while Parcel 52 awaits development as Royal Kunia Phase II, Increment 3. The socio-economic benefits of developing the residential uses of Increment 3 will not be lost; only delayed during the interim solar farm use. Therefore, the Project will provide the interim benefits of the solar farm use, as well as preserve the socio-economic benefits of future development of Parcel 52 for the residential units proposed as Royal Kunia Phase II, Increment 3.

128. Ho‘ohana plans to partner with the Maui Economic Development Board, a non-profit entity which developed a State-wide diverse renewable energy curriculum for grades K-12.

This curriculum incorporates science, technology, engineering and mathematics and can be integrated into any course curriculum. The curriculum is both place-based and culturally vetted and translated into both English and Hawaiian. Ho‘ohana will provide funds to sponsor a training cohort of ten (10) teachers from the Waipahu Complex, including one year of mentorship and course materials on alternative energy. The Waipahu Complex teachers have a reach of over 1,000 students per year.

129. Local farmers in the area support the Project because it will help to bring more security to the area.

N. IMPACTS UPON RESOURCES OF THE AREA

130. On September 23, 1989, the City and County of Honolulu Department of General Planning (now DPP) accepted the Final Environmental Impact Statement (“FEIS”) for the Royal Kunia Phase II project. On May 28, 1996, the Final Environmental Assessment (“FEA”) for Royal Kunia Phase II, was accepted.

131. The solar farm will have no greater environmental impacts than the originally proposed development of the Royal Kunia Phase II, Increment 3.

132. Ho‘ohana represented that it will set aside funds in its operation budget to cover the costs of decommissioning the Project.

133. Upon decommissioning of the Project, Ho‘ohana represented that it will recycle or salvage as much of the solar farm components as commercially feasible.

134. Ho‘ohana committed to comply with all governmental laws, ordinances, rules and regulations applicable to the development, operation, and decommissioning of the solar farm on Parcel 52.

135. Ho‘ohana represented that in the event the Project owners fail to secure a PUC-approved extension to its Power Purchase Agreement (“PPA”) or a new PUC-approved PPA before December 31, 2045, the Project owners will immediately commence with decommissioning of the solar farm.

136. Parcel 52 is currently being actively farmed. Lands to the north and west of Parcel 52 are also being actively farmed.

137. Development of the solar farm will not substantially impair agricultural resources or activities in the area.

138. The Commission previously determined that there is little of botanical significance in the Petition Area and that no endemic birds or mammals were found in the Petition Area.

139. The U.S. Fish and Wildlife Service noted that the Hawaiian hoary bat may forage or roost on Parcel 52. Ho‘ohana committed to avoid disturbance to woody plants 15 feet or greater in height during the hoary bat pup rearing season from June 1 through September 15 of each year, and to consult with the U.S. Fish and Wildlife Service on employee training programs to mitigate adverse impacts on endangered and migratory avian species.

140. No wetlands or streams are located on Parcel 52. No threatened or endangered species, nor any federally-declared critical habitat were identified on Parcel 52.

141. The PV panels used for the Project are similar to those used on rooftops and are not anticipated to generate any significant hazards to fauna, and birds in particular.

142. The PV panels used in this Project are designed to absorb as much solar energy as possible and will therefore create minimum to no glare and will not generate heat that could cause harm to birds.

143. The Commission found that the Petition Area contains no remaining above-ground archaeological features and offers little opportunity for subsurface recovery. There have been no archaeological or historical sites recorded in the Petition Area, therefore the Royal Kunia Phase II project should not cause any adverse impacts to archaeological or historical resources.

144. In June 2014, Ho‘ohana's consultant, Dr. Robert Spear of Scientific Consultant Services, Inc. (“SCS”), conducted an archaeological inventory survey (“AIS”) of Parcel 52 and Plantation Road.

145. The AIS was submitted to SHPD on July 30, 2014 and received by SHPD on August 1, 2014. In early October 2014, SHPD requested additional historic background on military uses of Parcel 52. SCS submitted this information to SHPD in the form of a supplemental report on November 5, 2014.

146. SHPD approved the AIS by letter dated February 19, 2015.

147. If any significant archaeological or cultural resources are discovered during construction of the proposed solar farm, Ho‘ohana will take steps to mitigate such effects and work with the appropriate state and county agencies.

148. Ho‘ohana prepared a Cultural Impact Assessment of Ho‘ohana Solar Energy Facility, Waikele and Ho‘ae‘ae Ahupua‘a, ‘Ewa District, Island of O‘ahu, dated July 2020 (“CIA”). There was little substantive feedback on the extent to which traditional and customary rights were being exercised in or around Parcel 52. The CIA indicates that Parcel 52 does not include any valued cultural or historic resources, and therefore, does not recommend any protective measures.

149. The 2020 Solar Project will not result in adverse impacts on traditional and customary practices associated with Parcel 52; cultural resources that support such practices; or, other beliefs about Parcel 52 that relate to such practices and resources.

150. The Commission previously found that the recharge of groundwater on the Petition Area is minimal due to the relatively low rainfall in the area. In addition, the organic matter in the soils on the Petition Area tends to retard movement of most chemicals.

151. There will be no significant use of groundwater or surface water resources by the solar farm Project, and thus no impairment to the public trust related to water resources. The Project does not require approval by the Water Commission, nor does it require a water allocation.

152. The Commission previously found that the Royal Kunia Phase II project would not impact scenic resources in the area because there are no significant public views or visual features.

153. Ho‘ohana had a view study prepared, dated May 15, 2020, that concluded the 2020 Solar Project would not adversely affect any views or sightlines.

154. The Commission previously found that the air quality of the Petition Area was relatively good and has improved since sugarcane cultivation terminated in the area. Construction of the Royal Kunia Phase II project has the potential for short-term air quality impacts resulting from the emission of fugitive dust during construction. Increased vehicle trips would add to increased exhaust emissions.

155. To the extent applicable, Ho‘ohana will use BMPs to control dust and erosion during construction of the solar farm. Erosion and dust will be minimal after construction of the

solar farm is completed. Dust generation and erosion will be controlled according to the terms of Ho‘ohana's building and grading permits.

156. There will be no emissions from the proposed solar farm and operation of the solar farm will produce only minimal vehicle trips.

157. Ho‘ohana prepared a construction traffic assessment in June 8, 2020. The 2020 Solar Project traffic impacts will be negligible during its operational life and only temporary impacts during construction that will not require roadway capacity enhancements. Ho‘ohana has committed to implementing traffic measures to address the temporary impacts during construction.

158. The solar farm on Parcel 52 will use significantly less water than the proposed residential development for Increment 3 of the Royal Kunia Phase II project.

159. Parcel 52 is relatively flat but some clearing and grading will be required to prepare the site for the solar farm. Stormwater runoff from the solar farm will be collected in the drainage basin on the southern portion of Parcel 52 and will be managed according to Ho‘ohana's National Pollutant Discharge Elimination System Permit (“NPDES”).

160. Appropriate BMPs for wastewater, stormwater and erosion controls will be determined as a part of Ho‘ohana's Conditional Use Permit, NPDES permit, building permits, and grading permits.

161. The State and City and County requirements for additional schools, public parks, and civil defense measures, are not applicable to the proposed solar farm use.

O. CONFORMANCE WITH THE GOALS, OBJECTIVES, AND POLICIES OF THE HAWAI‘I STATE PLAN; RELATIONSHIP WITH APPLICABLE PRIORITY GUIDELINES AND FUNCTIONAL PLANS

162. HRS §205-16 provides that "[n]o amendment to any land use district boundary nor any other action by the land use commission shall be adopted unless such amendment or other action conforms to the Hawai'i state plan."

163. The Commission previously determined that Urban designation of the Petition Area and development of the Petition Area as the Royal Kunia Phase II project is in conformance with the Hawai'i State Plan, HRS Chapter 226, and the overall theme, goals, objectives, and priority guidelines for the future long-range development of the State.

164. Development of Parcel 52 as a solar farm is consistent with applicable goals, objectives and policies of the Hawai'i State Plan.

P. CONFORMANCE WITH COASTAL ZONE MANAGEMENT OBJECTIVES AND POLICIES

165. The Commission previously determined that the Royal Kunia Phase II project complies with and supports the objectives of the Hawai'i Coastal Zone Management Program.

166. In compliance with coastal hazards objectives, the solar farm Project is not located in a tsunami inundation zone.

Q. COMMISSION CRITERIA FOR A MOTION TO AMEND

167. Authority to Amend. Hawai'i Administrative Rules ("HAR") §15-15-94 provides in part as follows:

(a) If a petitioner, pursuant to this section, desires to have a . . . modification of the commission's order, the petitioner shall file a motion in accordance with section 15-15-70 and serve a copy on all parties to the boundary amendment proceeding . . . in which the order was issued, and to any person that may have a property interest in the subject property as recorded in the county's real property tax records at the time that the motion is filed.

(b) For good cause shown, the commission may act to modify or delete any of the conditions imposed or modify the commission's order.

(c) Any modification or deletion of conditions or modifications to the commission's order shall follow the procedures set forth in subchapter 11.

168. Service of Motion. Under HAR §15-15-94, a petitioner filing a motion to amend or delete conditions under HAR §15-15-70 must serve a copy of the motion on all parties to the original boundary amendment proceeding in which the condition was imposed or the order was issued, and to any person who may have a property interest in the subject property as recorded in the County's real property tax records at the time that the motion is filed.

169. Pursuant to HAR §15-15-48, a copy of Ho'ohana's Motion was served on OP and the County. As determined by a review of the title reports for the Petition Area, all persons with a recorded interest in the Petition Area were served with a copy of the Motion to Amend.

170. Ho'ohana served copies of the Motion and subsequent pleadings upon each of the landowners of the Petition Area.

171. Good Cause Shown to Amend the 2015 Order. Under HAR §15-15-94(b), Ho'ohana has presented the Commission with good cause to amend the 2015 Order to allow modifications to the solar farm authorized thereunder and the related timeframe for development of the modified solar farm.

172. The 2020 Solar Project is consistent with the State Land Use Urban District classification and the Commission rules for State Land Use Urban District standards and permissible uses. HAR §§15-15-18 and 15-15-24. The 2020 Solar Project is fully permissible in the Urban District, unlike other proposals for utility-scale solar energy facilities on lands designated in the State Land Use Agricultural District.

173. The 2020 Solar Project is a "utility installation", as defined in Chapter 21-10.1 of the Revised Ordinances of Honolulu, and is permitted within any zoning designation of the City and County with a Conditional Use Permit-Minor Type A or Type B.

174. Solar energy production is a clean renewable energy resource strongly supported by the State to promote energy self-sufficiency and reduce the State's reliance on imported fossil fuels.

175. The Project will help the State to achieve its renewable energy goals.

176. Ho‘ohana's community outreach for the 2020 Solar Project indicated that the community is generally in support of the Project because it will help to stabilize ratepayer's electricity prices and will bring added security to the area.

177. Original Conditions of Approval; Applicability to Solar Farm Use. The Halekua Orders imposed 25 conditions of approval on the Petition Area. These conditions were created in anticipation of a residential development.

178. To the extent that the conditions in the Halekua Orders are applicable, Petitioner will ensure that the proposed Solar Project is in compliance.

RULINGS ON PROPOSED FINDINGS OF FACT

Any of the proposed findings of fact submitted by Successor Petitioner and the other parties not already ruled upon by the Commission by adoption herein, or rejected by clearly contrary findings of fact herein, are hereby denied and rejected.

Any conclusion of law herein improperly designated as a finding of fact shall be deemed or construed as a conclusion of law; any finding of fact herein improperly designated as a conclusion of law shall be deemed or construed as a finding of fact.

CONCLUSIONS OF LAW

1. Pursuant to HRS Chapter 205, and the Commission Rules under HAR Chapter 15-15, and upon consideration of the Commission decision-making criteria under HRS §205-17, this Commission finds upon a clear preponderance of the evidence that the use of Parcel 52, consisting of approximately 161.023 acres of land situate at Waikele and Hō‘ae‘ae, ‘Ewa, O‘ahu, Hawai‘i, as a solar farm, including all related utility and other infrastructure, for a period not to exceed 43 years from the date of this Order (inclusive of development, operations, and decommissioning, is reasonable, not violative HRS §205-2, is consistent with the policies and criteria established pursuant to HRS §§205-16, 205-17, and 205A-2, is consistent with the Hawai‘i State Plan as set forth in HRS Chapter 226, and is consistent with the prior Conditions of approval imposed under the Halekua Orders and 2015 Order.

2. Based upon the record and files herein and the findings set forth above, the Commission concludes that there is substantial evidence in the record to support the conditions imposed below.

3. Based upon the record and files herein and the findings set forth above, the Commission further concludes that the conditions imposed below are necessary or appropriate to protect public health, safety, and welfare, and are material to the Commission’s granting with modification Ho‘ohana’s Motion.

4. Based on the record and files herein and the findings set forth below, the Commission further concludes that the amended conditions imposed below are necessary or appropriate to the Commission’s granting with modification of Ho‘ohana’s Motion to allow

modifications to the solar farm and related timeframe for development authorized under the Commission's 2015 Order, including but not limited to, ensuring the adherence to representations made by Ho'ohana.

5. Article XII, section 7 of the Hawai'i State Constitution protects native Hawaiian traditional and customary rights. The Commission reaffirms and has taken into account all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua'a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights. The State and its agencies are obligated to protect the reasonable exercise of customarily and traditionally exercised native Hawaiian rights to the extent feasible. *Public Access Shoreline Hawai'i v. Hawai'i County Planning Comm'n*, 79 Hawai'i 425, 450 n.43, 903 P.2d 1246, 1271 n.43 (2000), *cert. denied*, 517 U.S. 1163 (1996).

6. The Commission has also taken into consideration common law standards intended to preserve and protect customary and traditional rights of native Hawaiians. *Ka Pa'akai O Ka 'Aina v. Land Use Comm'n*, 94 Hawai'i 31, 7 P.3d 1068 (2000).

7. Article XI, section 1 of the Hawai'i State Constitution requires the State to conserve and protect Hawai'i's natural beauty and all natural resources, including land, water, air, minerals and energy sources, and to promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State.

8. Article XI, section 1 of the Hawai'i State Constitution states that all public natural resources are held in trust by the State for the public benefit. Governmental bodies are precluded from authorizing a proposed use that will impact the public trust in the absence of an affirmative

showing that the use does not conflict with public trust principles and purposes. *Kaua'i Springs v. Planning Comm'n of the County of Kaua'i*, 133 Hawai'i 141, 324 P.3d 951 (2014).

9. Article XI, section 3 of the Hawai'i State Constitution requires the State to conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency, and assure the availability of agriculturally suitable lands.

10. Parcel 52 and the Petition Area were not, prior to reclassification to the Urban district, designated as Important Agricultural Lands under Part III of HRS Chapter 205.

11. Article XI, section 7 of the Hawai'i State Constitution states that the State has an obligation to protect, control, and regulate the use of Hawai'i's water resources for the benefit of its people.

12. The Commission concludes that it has observed and complied with its duties arising under common law and Article XI, section 1; Article XI, section 3; Article XI, section 7; and Article XII, section 7 of the Hawai'i State Constitution.

DECISION AND ORDER

IT IS HEREBY ORDERED that Parcel 52, consisting of approximately 161.023 acres of land situate at Waikele and Hō'ae'ae, 'Ewa, O'ahu, Hawai'i, identified as TMK No. 9-4-002: 052 ("**Parcel 52**"), may be used as a utility-scale solar farm, including all related utility and other infrastructure, for a period not to exceed 43 years from the date of this Order (inclusive of development, operations, and decommissioning).

Based upon the findings of fact and conclusions of law stated herein, it is hereby determined that the use of Parcel 52 for a solar farm will not significantly affect or impair the

preservation or maintenance of natural systems and habitats or the valued cultural, historical, agricultural, and natural resources of the area.

IT IS FURTHER ORDERED that the following amended conditions shall apply to the Petition Area but not to the solar farm development on Parcel 52:

A. **Amended and New Conditions Imposed on the Petition Area.** The following amended Conditions A1 through and including A3 shall replace Condition A1 through A3 of the 2015 Order:

1. Royal Kunia Agricultural Park Offsite Infrastructure. Within six (6) months of the date of the Commission's Order, the landowner(s) within the Petition Area shall execute an amendment to the Memorandum of Understanding (dated 1993 and subsequent amendments in 2007, 2009, 2012, 2015 and 2020) with the Department of Agriculture, and comply with this amended Memorandum of Understanding. This Memorandum shall require that off-site infrastructure to the State of Hawai'i's Kunia Agricultural Park be completed no later than June 30, 2023. "Offsite-infrastructure" includes, but is not limited to, all utilities and appurtenant works, roadways, potable water lines, electrical utilities, sewer lines, utility connections, and the non-potable waterline appurtenances in place, complete.
2. Revised Master Plan. All landowners within the Petition Area shall submit revised master plan(s) and schedule(s) for the development of their respective Increments 1, 2, and 3, comprising the Royal Kunia Phase II project to the Commission no later than December 31, 2021.
3. Status Report. By March 15, 2021, all landowners within the Petition Area shall submit to the Commission a status report on the development of their respective parcels of land and their construction or contribution to the construction of the off-site infrastructure.
4. Notice to Commission. Petitioner shall provide notice to the Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interests in the subject property prior to or during development of the subject property, excluding, however, sales or leases of the 53 individual lots or condominium units in a residential development, or leases in an industrial development.
5. Compliance with Representations. Failure of the landowners to construct the off-site infrastructure for the Kunia Agricultural Park will constitute good cause for the Commission to issue an Order to Show Cause to the landowners pursuant to HAR §15-15-93 of the Commission's Rules.
6. Failure of Solar Project. Should Ho'ohana fail to construct and complete the Solar Project, the easement(s), construction, maintenance and cost of the non-potable waterline

described under Condition B.1, shall revert to the responsibility and expense of the landowners.

B. Amended Conditions Imposed Solely on Solar Farm to be Developed on Parcel 52

The following conditions B1 through and including B7 shall be applicable only to the solar farm on Parcel 52, and shall be applicable only upon development of the solar farm use on Parcel 52:

1. Royal Kunia Agricultural Park Non-Potable Water Connection. Prior to the connection of the Solar Project to the grid, Ho‘ohana shall, at no cost to the State and concurrent with construction of the solar farm, design and provide an off-site, non-potable waterline from Reservoir 225 to the boundary of the Royal Kunia Agricultural Park (the "non-potable waterline"), using the design and specifications acceptable to the Department of Agriculture that were submitted to the Department of Planning and Permitting by RP2 Ventures, LLC. Prior to providing the non-potable waterline, Ho‘ohana shall at its sole cost and expense, cause Robinson Kunia Land LLC to grant any required non-exclusive, perpetual utility easement(s) to the State of Hawai‘i for the alignment of the non-potable waterline. Ho‘ohana shall provide contracted maintenance on the installed non-potable waterline and maintain the non-potable waterline in an operable condition for the duration of the operation of the solar farm at no cost to the State. The Department of Agriculture shall be solely responsible for obtaining the non-potable water allocation to service the Royal Kunia Agricultural Park. If Ho‘ohana is required to perform an environmental impact statement pursuant to Chapter 343, Hawai‘i Revised Statutes, then the time period set forth in this condition shall be extended by the number of days that Ho‘ohana is delayed as a result.
2. Fish and Wildlife Protection. Ho‘ohana shall comply with the following:
 - a. Consult with the US Fish and Wildlife Service to coordinate staff training programs and measures to mitigate adverse impacts on endangered and migratory avian species.
 - b. Prior to clearing vegetation, twilight pre-construction surveys shall be conducted by qualified biologists. If pueo nests are present, the State Department of Land and Natural Resources, Division of Forestry and Wildlife (“DOFAW”) shall be notified and a buffer zone established in which no clearing occurs until nesting ceases.
 - c. If State-listed water birds such as the Hawaiian Duck (*Anas wyvilliana*), Hawaiian Stilt (*Himantopus mexicanus knudseni*), Hawaiian Coot (*Fulica alai*), and Hawaiian Common Gallinule (*Gallinula choropus sandvicensis*) are present during construction activities, all activities within 100 feet (30 meters) shall cease, and the bird should not be approached. Work may continue after the bird leaves

the area of its own accord. If a nest is discovered at any point, DOFAW shall be contacted.

- d. The movement of plant soil material between worksites such as in-fill shall be minimized. Ho‘ohana shall contact the O‘ahu Invasive Species Committee to minimize the risk of spreading invasive species. All equipment, materials and personnel should be cleaned of excess soil and debris to minimize the risk of spreading invasive species.
 - e. Construction activity shall be restricted to daylight hours as much as practicable during seabird breeding season (April through November) to avoid the use of nighttime lighting that could be an attraction to seabirds.
 - f. All nighttime work that requires outdoor lighting shall be avoided during the seabird fledgling fallout period from September 15 through December 15.
 - g. All outdoor lighting at the Project shall be shielded to prevent upward radiation so as to reduce the potential for seabird attraction.
 - h. To avoid potential impacts to the Hawaiian hoary bat, the clearing of dense vegetation, including woody plants greater than 15 feet tall should not occur between June 1 to September 15 when bats may be carrying young and potentially at risk by such clearing activities. If this cannot be avoided, woody plants greater than 15 feet tall should not be disturbed, removed, or trimmed without consulting DOFAW.
3. Archaeological and Historic Resources. No ground altering activities shall occur prior to obtaining approval of the Archaeological Inventory Survey from the State Historic Preservation Division.
 4. Aircraft and Traffic Hazard. If the photovoltaic array creates a hazardous condition for pilots or motorists, the facility operator shall immediately initiate steps to mitigate the hazard upon notification by the Department of Transportation (“DOT”).

Ho‘ohana shall resubmit a Federal Aviation Form (“FAA”) 7460-1 Notice of Proposed Construction or Alteration for the proposed increase in the number of photovoltaic (PV) solar panels. A glint and glare analysis shall be attached to the FAA Form 7460-1. Ho‘ohana shall provide DOT a copy of the FAA determination of the FAA Form 7460-1.
 5. Development Schedule. The proposed solar farm shall be substantially completed within two (2) years from the approval date of this Decision and Order.
 6. Compliance with Representations. Ho‘ohana shall develop the non-potable waterline and solar farm in substantial compliance with its representations reflected in the Decision and Order. Failure to develop the non-potable waterline and/or Parcel 52 as a solar farm as represented will constitute good cause for the Commission to issue an Order to Show Cause to Ho‘ohana pursuant to HAR §15-15-93 of the Commission’s Rules.

7. Decommissioning of the Solar Farm. Ho‘ohana will comply with the following:
- a. The solar farm shall be decommissioned following the termination of its Power Purchase Agreement (“PPA”) and completed within two years. The decommissioning activities shall include, but not be limited to, the removal of the physical equipment (e.g., racks, panels, inverters, conduits, control cabinets, etc.), foundational piers as is commercially feasible, and the complete removal of all modules and associated components. All metal components shall be recycled to the extent commercially feasible, and Ho‘ohana shall minimize disposal of any solar farm components in any landfill in the State of Hawai‘i.
 - b. In the event the project owner fails to secure a PUC-approved extension to its PPA or a new PUC-approved PPA before December 31, 2045, the project owners will immediately commence with decommissioning of the solar farm as described in Condition B.7(a), and complete decommissioning on or before December 31, 2047.
 - c. Any future use of Parcel 52 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 revised master development plan for Royal Kunia Phase II, Increment 3 and shall further include, but not be limited to, a revised Traffic Impact Analysis Report, Engineering Report, Socio-Economic Analysis Report, Environmental Report, and Archaeological Inventory Survey Report.

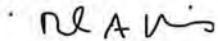
IT IS FURTHER ORDERED that the above Amended and New Conditions Imposed on the Petition Area shall be in addition to the Conditions imposed under the Halekua Orders. The Conditions imposed under the Halekua Orders are hereby reaffirmed and shall continue in full force and effect as they pertain to the Petition Area and Parcel 52.

ADOPTION OF ORDER


This ORDER shall take effect upon the date this ORDER is certified and filed by this Commission.

Done at Honolulu, Hawai'i, this 1st day of November 2021, per motion on October 8, 2020.

APPROVED AS TO FORM




Deputy Attorney General


By
JONATHAN LIKIKE SCHEERER
Chairperson and Commissioner
State Land Use Commission

Filed and effective on November 1, 2021

Certified by:


DANIEL E. ORODENKER
Executive Officer
State Land Use Commission



BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of) DOCKET NO. A92-683
)
HALEKUA DEVELOPMENT)
CORPORATION, a Hawai'i corporation) CERTIFICATE OF SERVICE
)
To Amend the Agricultural Land Use District)
Boundary into the Urban Land Use District)
for Approximately 503.886 Acres at Waikele)
and Hō'ae'ae, 'Ewa, O'ahu, City and County)
of Honolulu, State of Hawai'i, Tax Map Key)
No. 9-4-02: 1, portion of 52, 70 and 71)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the AMENDED ORDER GRANTING SUCCESSOR PETITIONER (AS TO PARCEL 52) HO'OHANA SOLAR 1, LLC'S MOTION FOR MODIFICATION AND TIME EXTENSION was served upon the following by either hand delivery or depositing the same in the U.S. Mail, by regular or certified mail as noted:

HAND DELIVERY	MARY ALICE EVANS, Director Office of Planning State Office Tower, 6th Floor 235 South Beretania Street Honolulu, Hawai'i 96813
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HAND DELIVERY	ALISON KATO, ESQ. BRYAN C. YEE, ESQ. Deputy Attorney General Commerce and Economic Development Department of the Attorney General 425 Queen Street Honolulu, Hawai'i 96813
HAND DELIVERY	DEAN UCHIDA, Director Department of Planning and Permitting City and County of Honolulu 650 South King Street, 7th Floor Honolulu, Hawai'i 96813
HAND DELIVERY	MOLLIE STEBBINS, ESQ. DANA VIOLA, ESQ. Corporation Counsel Department of the Corporation Counsel Honolulu Hale 530 South King Street, Room 110 Honolulu, Hawai'i 96813
U.S. MAIL	ROBINSON KUNIA LAND LLC c/o RUSH MOORE LLP ATTN: STEPHEN K.C. MAU, ESQ. Pacific Guardian Center, Mauka Tower 737 Bishop Street, Suite 2400 Honolulu, HI 96813
U.S. MAIL	FOREST CITY SUSTAINABLE RESOURCES, LLC ATTN: ANN BOUSLOG 5173 Nimitz Road Honolulu, HI 96818
U.S. MAIL	HANWHA Q CELLS USA CORP. ATTN: LAURENCE GREENE 8001 Irvine Center Drive, Suite 1250 Irvine, CA 92618
U.S. MAIL	HALEKUA DEVELOPMENT CORPORATION ATTN: THE HORITA GROUP, INC. MR. JOSHUA HORITA 98-150 Ka'ōnohi Street B128 Aiea, HI 96701
U.S. MAIL	HRT REALTY, LLC c/o LAW OFFICES OF REUBEN WONG ATTN: DELWYN H.W. WONG, ESQ. 1164 Bishop Street, Suite 1006 Honolulu, HI 96813

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U.S. MAIL	AM PACIFIC GROUP LLP ATTN: ANGELA FONG MICHAEL H. LAU 400 Davies Pacific Center 841 Bishop Street Honolulu, HI 96813
<u>U.S. MAIL</u>	HASEKO ROYAL KUNIA LLC 91-1001 Kaimalie Street, Suite 205 'Ewa Beach, HI 96706
U.S. MAIL	IMANAKA ASATO LAW FIRM ATTN: STEVEN CHUNG, Esq. 745 Fort Street Mall Suite 1700 Honolulu, HI 96813
CERTIFIED MAIL-	JENNIFER A. LIM, Esq. JOHN P. MANAUT, Esq. DEREK B. SIMON, Esq. Carlsmith Ball LLP 1001 Bishop Street ASB Tower, Suite 2200 Honolulu, Hawai'i 96813

Honolulu, Hawai'i November 1, 2021



DANIEL ORODENKER
Executive Officer