

**DOCKET NO. A92-683**  
**Halekua (Royal Kunia Phase 2)**

**Status Report**

***STAFF REPORT***

Hearing  
April 3, 2024



**Daniel E. Orodenker, Executive Officer**

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**Submitted: March 28, 2024**

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## **1. EXPLANATION OF PROCEEDING**

Status and Progress Report hearings provide the Petitioner an opportunity to update the Commission on progress or problems in complying with the representations and conditions of the decision and order.

Any decisions by the Commission should be based on good cause (or lack of) shown by the Petitioner for its lack of progress and evidence put on the record. If the Commission finds that Petitioners are not in compliance with the 1996 Decision and Order, or subsequent amendments, they may request staff to schedule a follow up status report hearing, or a hearing for Order to Show Cause proceedings.

### **Legal precedent and obligation**

Pursuant to HAR 15-15-90(c) “The Commission may require the petitioner to submit periodic reports indicating what progress has been made in complying with any conditions that may have been imposed by the commission.”

Pursuant to HRS 205 and HAR 15-15-79(a): “Petitioners granted district boundary amendments shall make substantial progress within a reasonable period, as specified by the commission, from the date of approval of the boundary amendment, in developing the property receiving the boundary amendment. The Commission may act to amend, nullify, change, or reverse its decision and order if the petitioner fails to perform as represented to the Commission within the specified time period.”

Condition 22 of the 1996 Decision and Order Relating to Annual Reports “Petitioner shall promptly provide, without any prior notice, annual reports to the LUC, OPSD and Department of Planning and Permitting (“DPP”) in connection with the status of the project and Petitioner’s progress in complying with the conditions imposed...”

After hearing from the Petitioner and other parties, the Commission decides whether additional time may be needed to move forward or that there is a reason to believe that Petitioner is non-compliant with representations and conditions in the D&O and set an Order to Show Cause hearing pursuant to HAR 15-15-79 and 15-15-93(b).

## 2. BACKGROUND INFORMATION

The proceeding before the Land Use Commission (“LUC”) is to hear a status report by Petitioners currently involved in the Docket A92-683: Haseko, Ho’ohana Solar, RKII Partners, Robinson Kunia, RKES, and Department of Agriculture (see map and ownership in staff notes).

In 1993, the original Docket involved the reclassification of approximately 504.865 acres of land from the State Land Use Agricultural District to the State Land Use Urban District at Waikele and Ho’ae’ae, ‘Ewa, O’ahu, City and County of Honolulu, Hawai’i, TMK 9-4-02: Portion of 1 and Portion of 52. The District Boundary Amendment (“DBA”) was granted on December 9, 1993, subject to 28 conditions ([see the 1993 Decision and Order](#)).

In 1995, the metes and bounds description was amended to change the acreage from 504.865 to 503.886.

On August 1, 1995, Halekua filed a Motion to Change Ownership Interest in the Petition Area to convey two parcels of approximately 60 acres and 63 acres zoned I-1 (Limited Industrial) and a parcel of approximately 9 acres zoned A-1 (Low-Density Apartment) to HRT, Ltd. the Motion was granted, ([see the 1995 Decision and Order](#)).

In 1996, Docket A92-683, amended the Tax Map Key Numbers: 9-4-02: 1, portion of 52, 70 and 71. The Amendment was approved on September 12, 1996, subject to 25 conditions ([see the 1996 Decision and Order](#)).

### **Other Historical Motions and Orders associated with the Docket:**

[1996 Amended Decision & Order](#)

[2003 Order Granting OPSD’s Motion for Order to Show Cause](#)

[2003 Order to Show Cause](#)

[2004 Order Granting OPSD’s Motion to Exempt HRT from OSC](#)

[2007 Order Granting Halekua’s Motion to Dismiss OSC](#)

[2007 Order Granting Timely Motion to Intervene](#)

[2007 Order Granting Halekua’s Motion for Transfer of Ownership](#)

[2013 1st Amendment to Amended Decision & Order](#)

[2014 Order Approving Successor Petitioner \(to Parcel 52\) Ho’ohana Solar 1, LLC’s Request to Continue Proceedings](#)

Continuation of explanation of recent and relevant Motions on the following page.

2014 Motion to Amend  
the 1996 Order

On August 11, 2014, Ho'ohana Solar 1, LLC ("Ho'ohana") filed its Motion for Order Amending the Amended Findings of Fact, Conclusions of Law, and Decision and Order filed on October 1, 1996.

The Motion moved that:

- (1) recognize Ho'ohana as the Successor Petitioner to Parcel 52 withstanding to seek and obtain relief requested;
- (2) issue an order modifying the Commission's 1996 Order, as amended by the Commission's 2013 First Amendment to the 1996 Decision and Order ("2013 Order"), to expressly authorize the proposed interim 30-year operational use of Parcel 52 for solar farm development; and
- (3) to delete Condition No. 21 of the 1996 Order, as amended by the 2013 Order, requiring the Commission's prior approval to change any ownership interest in the Petition Area, because it has been fully satisfied, or, in the alternative, pursuant to requirements of Condition No. 21, approve the proposed lease of Parcel 52 by the landowner Robinson Kunia Land LLC ("RKL") to Ho'ohana to allow the solar farm development.

The Motion was approved with the amendment of conditions 19 and 21, an additional 7 conditions pertaining to the solar farm, and the original conditions imposed in the previous Halekua Orders ([see the 2015 Decision and Order](#))

**Condition One:** Royal Kunia Agricultural Park Non-Potable Water Connection. By December 31, 2016, Ho'ohana shall, at no cost to the State and concurrent with construction of the solar farm, design and provide an offsite, non-potable waterline from Reservoir 225 to the boundary of the Royal Kunia Agricultural Park

(the "non-potable waterline"), to specifications mutually acceptable to Ho'ohana and the Department of Agriculture. 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 nonpotable 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.

On July 14, 2020, the Land Use Commission received the [2020 Annual Report](#) from RP2 Ventures

On August 14, 2020, The Land Use Commission received the notice of [change in ownership from RP2 to Haseko](#)

2020 Ho'ohana Solar Motion to Modify and Extend

On August 17, 2020, Ho'ohana moved to  
1) allow modification to the solar farm previously authorized; and,  
(2) extend the timeframe for development of the modified solar farm.

The extension was set in condition 5 of the [2021 Decision and Order](#), which set the Completion/Extension date to Nov. 1, 2023.

On September 3, 2021, the LUC received change in ownership from HRT Realty to RK II Partners LLC., and on December 17, 2021, The LUC received the [2021 Annual Report](#) from Haseko.

On January 14, 2022, in compliance with condition two, Haseko filed their [Revised Master Plan](#). On May 24, 2022 the [2022 Annual Report](#) was received from RKII Partners, LLC, and on November 16, 2022, Haseko filed their [2022 Annual Report](#).

Following the Haseko 2022 Annual Report, the LUC Received [DOA Comments](#). The DOA Comment Letter raised questions on:

- Compliance with the LUC Order that required construction of infrastructure by June 30, 2023.
- The Memorandum of Understanding regarding irrigation Facilities, which divides responsibilities for construction of the irrigation infrastructure.
- The delay of infrastructure construction and completion and water commitment

LUC Staff coordinated a meeting with Department of Agriculture and the Office of Planning and Sustainable Development on May 23, 2023. OPSD and DOA provided a joint [letter regarding the status of the development](#).

LUC Staff Scheduled a Status Report for April 3, 2024, and Petitioners Motion for April 4, 2024 (see other staff Report).

### **3. PETITIONER FILINGS**

#### Ho'ohana Solar 1, LLC

[Exhibit H1](#): Grant of Waterline Easement

[Exhibit H2](#): Species Training

[Exhibit H3](#): SHPD Concurrence Letter

[Exhibit H4](#): FAA No Hazard Determination

Exhibit H5: [Page 1](#), [Page 2](#), [Page 3](#), [Page 4](#)

Ho'ohana Solar's Exhibits are images of current progress of construction.

**As of 3/28/2024, The LUC has not received any other status report filings.**

**4. OPSD POSITION**

The OPSD is responsible for representing the State’s interest in dockets before the LUC, so OPSD and DOA coordinated to provide a joint [letter regarding the status of the development](#).

The letter includes relevant background information, information on the status, and information resulting from meetings with OPSD, DOA, and Haseko. The outcome resulted in Haseko filing their Motion for Order Amending the Memorandum of Understanding's Offsite Infrastructure Date in Condition A., which will be presented in the meeting on April 4, 2024.

**5. CITY AND COUNTY OF HONOLULU PLANNING DEPARTMENT POSITION**

As of 3/28/24 no filings or position statements have been received from the C&C of HNL.

**6. STAFF ANALYSIS**

Landowners in the Petition Area	
Haseko Royal Kunia LLC.	(1)9-4-002:070, 078, 084, 085, 086;2 (formerly 071)
Robinson Kunia Land LLC. Ho'ohana Solar LLC (Successor Petitioner)	(1)9-4-002:052
RKII Partners LLC.	(1)9-4-002: 001
RKES LLC.	(1)9-4-002:079
Department of Agriculture (Ag Park)	(1)9-4-002:080

**See map attached to the end of the staff report**

Staff concerns and possible points of questioning, based on filings and annual reports available:

Annual Reports from Petitioners  
(Condition 22):

Haseko Royal Kunia- Files Annual Reports  
Robinson Kunia Land- No Annual Report  
RKII Partners – Delinquent 2023  
Department of Agriculture- Not required

**LUC staff requests that the Commission order immediate annual report filings from delinquent parties.**



Ho’ohana Solar 1, LLC

It is unclear if Ho’ohana, is compliance with Condition Number 5, because the project does not seem to be “substantially completed”

Annual Reports

Though annual reports are not a condition, the LUC Staff recommends requesting annual reports from Ho’ohana.

Annual Reports from Ho’ohana would provide the Commission and Staff updates to the compliance with conditions, as well as general updates on operation.

The current landowner is Robison Kunia Land LLC. and has not submitted annual reports as required. As the successor Petitioner, staff believes this is a reason to ask Ho’ohana for annual reports.

If Petitioner is not amenable to the request, a condition may be set by the Commission.

Agricultural Park (Condition 19):

Prior to the scheduling of the status report, the Department of Agriculture brought to our attention that the deadline of offsite infrastructure completion was fast approaching (June 30, 2023). This deadline has since passed, DOA expressed concern about the numerous extensions, and the long awaited waterline.

The delays are not in the State Department of Agriculture’s interest ([see comment letter](#)). \* ties into the Motion to Amend MOU.

2023 Haseko annual report indicates construction began in July 2023, after LUC Staff raised the issue. LUC staff would like to note that it is the Petitioner’s duty to

seek relief prior to the deadline in the Condition, and it is OPSD's duty to represent the interests of the State and its agencies and departments.

Affordable Housing (Condition 1):

Haseko is in discussion with the Department of Planning and Permitting on the terms of the agreement in compliance with the Unilateral Agreements

School Facilities (Condition 6):

The School Site Agreement provides for the (a) transfer of a 12-acre elementary school site to RKES, LLC in satisfaction of the dedication component of DOE's fair share requirement, and (b) the payment to DOE of a total of \$500,000 in five installments that are due upon the closing of: (1) the 1,000th unit, (2) the 1,250th unit, (3) the 1,500th unit, (4) the 1,750th unit, and (5) the last unit. The amounts due will be escalated over time based on the Consumer Price Index.

The 12-acre site has been conveyed to RKES, LLC, and a copy of the March 6, 2007, **School Site Agreement will be filed with DPP concurrently with the submittal of initial subdivision plans.**

The LUC staff notes that the filing of the School Site Agreement is an important action that needs clarification if it has occurred yet.

Water Requirements (Condition 7):

Haseko's 2023 Annual Report indicates that they submitted an updated water master plan to BWS in June 2021 which reflects the projected water demand based on BWS' system standards applied to the projected development for the various areas of RKII.

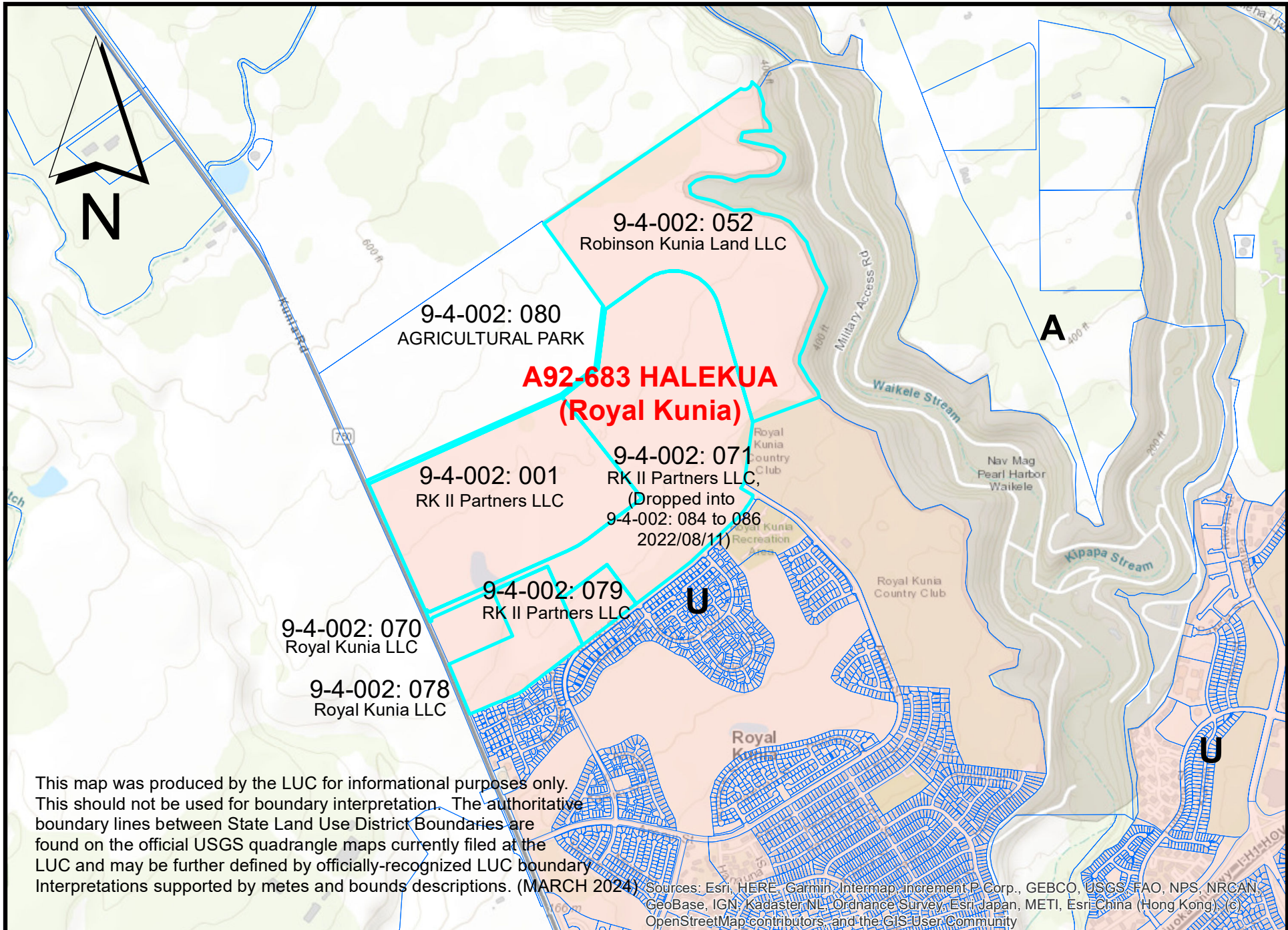
LUC Staff is interested in the updated status of obtaining the water required for each component of the project.

Bifurcation

LUC Staff believes bifurcation is a relevant option for Petitioners to proceed with, because of the long history and frequent land owner changes.

Conclusion:

- Should the Commission find that the responses regarding these issues are adequate it need not take any action.
- Should the Commission find that it is not satisfied with the responses with the responses it may;
  1. Schedule further proceedings on this matter; or
  2. Request staff schedule an Order to Show Cause



This map was produced by the LUC for informational purposes only. This should not be used for boundary interpretation. The authoritative boundary lines between State Land Use District Boundaries are found on the official USGS quadrangle maps currently filed at the LUC and may be further defined by officially-recognized LUC boundary Interpretations supported by metes and bounds descriptions. (MARCH 2024)

Sources: Esri, HERE, Garmin, Intermap, increment P. Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community