



COURT REPORTING

LEGAL VIDEOGRAPHY

VIDEOCONFERENCING

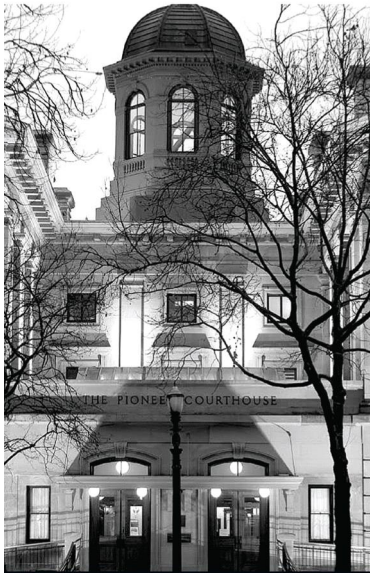
TRIAL PRESENTATION

MOCK JURY SERVICES

LEGAL TRANSCRIPTION

COPYING AND SCANNING

LANGUAGE INTERPRETERS



NAEGELI
DEPOSITION & TRIAL



(800) 528-3335

NAEGELIUSA.COM

**STATE OF HAWAII
LAND USE COMMISSION**

Hybrid Meeting held on September 5, 2024
Commencing at 8:00 a.m.

Held at
Leiopapa A Kamehameha, State Office Tower
Room 405
235 Beretania Street, Room 405
Honolulu, HI 96813

- I. **CALL TO ORDER**
- II. **APPROVAL OF MINUTES FOR AUGUST 21-22, 2024**
- III. **TENTATIVE MEETING SCHEDULE**
- IV. **SP73-147 GRACE PACIFIC LLC, FORMERLY PACIFIC CONCRETE & ROCK CO., LTD. (Makakilo Quarry) (Oahu)**
Adoption of Findings of Facts, Conclusions of Law, and Decision and Order for Application to Modify SP73-147 (SUP No. 2007/SUP-6)
- V. **STATUS REPORT BY THE LAND USE DEVELOPMENT COORDINATOR**
- VI. **PRESENTATION AND ACTION ON MEMORANDUM OF UNDERSTANDING WITH THE STATE OF HAWAII COMMISSION ON WATER RESOURCE MANAGEMENT**
Authorize the Chairperson to Enter into a Memorandum of Understanding ("MOU") with the State of Hawaii Commission on Water Resource Management ("CWRM") to Encourage Information Sharing and Collaboration Between the Agencies and Delegate to the Chairperson to Finalize an MOU and Make Non-Substantial Edits as Appropriate
- VII. **ADJOURNMENT**

BEFORE :

1 LUC COMMISSIONERS
2 Dan Giovanni (via Zoom)
3 Kuike Kamakea-Ohelo (via Zoom)
4 Mel Kahele (via Zoom)
5 Michael Yamane (via Zoom)
6 Myles Miyasato (via Zoom)
7 Nancy Carr Smith (via Zoom)
8 Bruce U'u (via Zoom)
9 Brian Lee
10 Ken Hayashida
11
12 LUC STAFF
13 Daniel Orodener, Executive Officer (via Zoom)
14 Scott Derrickson, Chief Planner
15 Arnold Wong, Land Use Development Coordinator
16 Martina Segura, Planner (via Zoom)
17 Miranda Steed, Esq., Deputy Attorney General (via Zoom)
18
19 GRACE PACIFIC
20 Calvert Chipchase, Esq. (via Zoom)
21 Wyeth Matsubara
22 Scott Komatsu
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PARTICIPANTS (CONTINUED)

DEPARTMENT OF PLANNING AND PERMITTING ("DPP"), CITY AND COUNTY OF HONOLULU

Patricia Sendao, Esquire, Deputy Corporation Counsel (via Zoom)

OFFICE OF PLANNING AND SUSTAINABLE DEVELOPMENT ("OPSD")

Alison Kato, Esquire, Deputy Attorney General

Katia Balassiano, Planning Program Administrator

PUBLIC TESTIMONY

David Arakawa

1 **CHAIR GIOVANNI:** Click, click. That was
2 my gavel. Aloha mai kakou. Good morning.

3 This is the September 5th, 2024, Land Use
4 Commission meeting.

5 This is a hybrid meeting which is
6 physically being held at the Leiopapa A Kamehameha,
7 State Office Tower, located at 235 South Beretania
8 Street, Room 406, Honolulu, Hawaii 96813, and this
9 meeting is open to the public.

10 Court reporting transcriptions are being
11 done from the Zoom recording of this meeting. For
12 all meeting participants, I'd like to stress the
13 importance of speaking slowly, clearly, and directly
14 into your microphone. And, before speaking, please
15 state your name and identify yourself for the record
16 and, please, do this each time you speak.

17 So this is a hybrid meeting, and please be
18 aware that all meeting participants are being
19 recorded on the digital record of the Zoom meeting,
20 which will be posted to YouTube and used for court
21 reporting purposes. Your continued participation is
22 your implied consent to be part of the public record
23 of this event. If you do not wish to be part of the
24 public record, you should exit the meeting now.

25 Also, please note, due to matters entirely

1 outside of our control, occasional disruptions of
2 connectivity may occur for one or more members of
3 the meeting at any given time. If such disruptions
4 occur, please be patient and we will try to restore
5 the audiovisual signals to effectively conduct this
6 -- this business.

7 And let me note for everyone that we're
8 aware -- and I'll be speaking to this in a minute --
9 of construction activity on the office building
10 where the meeting is being held, so this might be
11 particularly of concern today that we might be
12 interrupted.

13 Please note that the Q and A feature on
14 Zoom will only be monitored for signing up for
15 public testimony. All other communications will not
16 be witnessed -- pardon me, will not be addressed are
17 part of the meeting record. Communications can be
18 emailed to our office at dbedt.luc.web@hawaii.gov.

19 I also share with participants that we'll
20 take breaks from time to time, normally, five
21 minutes every hour; and, if necessary, we'll take a
22 lunch break.

23 My name is Dan Giovanni, and I have the
24 pleasure to serve as LUC Chair. We currently have
25 nine seated commissioners. Among -- along with me

1 attending today's meetings are Commissioner Yamane
2 from Kauai; Commissioner Kahele and Commissioner Lee
3 and Commissioner Kamakea-Ohelo from the Island of
4 Oahu; Commissioner Carr Smith from Hawaii Island and
5 Commissioner Miyasato from Hawaii Island.
6 Commissioner Hayashida is recused, and Commissioner
7 U'u from Maui Island is due to arrive shortly, if he
8 hasn't already.

9 Please confirm if he's there or not; I
10 cannot tell.

11 **MR. WONG:** Mr. Chair?

12 **CHAIR GIOVANNI:** Yes, Mr. Wong.

13 **MR. WONG:** Commissioner Hayashida is here
14 in our office on -- on Zoom.

15 **CHAIR GIOVANNI:** Wait a minute, I'm
16 confused. Commissioner Hayashida is witnessing, but
17 he's recused from the meeting?

18 **COMMISSIONER HAYASHIDA:** Hayashida. Just
19 for the agenda item on the quarry.

20 **CHAIR GIOVANNI:** Okay. So you're --
21 you're going to recuse yourself from the quarry
22 portion agenda item, but the other portions you'd
23 like to participate. Is that correct?

24 **COMMISSIONER HAYASHIDA:** Correct.

25 **CHAIR GIOVANNI:** Okay. Great. Thanks for

1 joining us today.

2 And Commissioner U'u is still not in
3 attendance.

4 Also in attendance are LUC Executive
5 Officer Daniel Orodener, LUC Chief Planner Scott
6 Derrickson, LUC Coordinator Arnold Wong, and LUC
7 Attorney General -- Attorney General Miranda Steed.

8 A court -- again, court reporting
9 transcriptions are being done from this Zoom
10 recording. So, Commissioners, I've been advised of
11 a artifact of the Sunshine Law, and I'm going to ask
12 our attorney general to explain it to us.

13 It's not -- since this is a hybrid
14 meeting, my understanding is that all commissioners
15 need to -- to acknowledge whether or not there are
16 any adults in the room with you if you are attending
17 this meeting via Zoom.

18 Ms. Steed, could you explain that
19 requirement, please?

20 **MS. STEED:** Yeah. This -- attorney --
21 Deputy Attorney General Miranda Steed.

22 Sunshine Law requires that during hybrid
23 meetings such as this, anyone appearing remotely on
24 Zoom just needs to identify if there is anyone else
25 in the room with them. And if there's any other

1 adults in the room, that's fine, they just need to
2 be identified so that it's in the record that that
3 person was technically present because you're on
4 Zoom.

5 **CHAIR GIOVANNI:** So is that for the
6 commissioners only or for everyone?

7 **MS. STEED:** Commissioners only.

8 **CHAIR GIOVANNI:** Thank you very much.

9 So I will poll the commissioners one at a
10 time just to ask if there's any adults in your room.
11 And, if so, just -- they have to be named who they
12 are.

13 Is that correct, Ms. Steed?

14 **MS. STEED:** Yeah. Just identified who
15 they are.

16 **CHAIR GIOVANNI:** Okay. So Commissioner
17 Yamane, any adults in the room with you?

18 **COMMISSIONER YAMANE:** Just myself, Mr.
19 Chair.

20 **CHAIR GIOVANNI:** Thank you.

21 Commissioner Kahele, any adults in the
22 room with you?

23 **COMMISSIONER KAHELE:** Just me.

24 **CHAIR GIOVANNI:** Commissioner Lee is in
25 the -- not in a separate room. He's in the main LUC

1 room. Is that correct?

2 **COMMISSIONER LEE:** That's correct.

3 **CHAIR GIOVANNI:** Commissioner Kamakea-
4 Ohelo, anybody in the room with you?

5 **COMMISSIONER KAMAKEA-OHELO:** Just me,
6 Chair. Mahalo.

7 **CHAIR GIOVANNI:** Thank you.

8 Commissioner Carr Smith, anybody in the
9 room with you?

10 **COMMISSIONER CARR SMITH:** Just my adult
11 dog, Izzy.

12 **CHAIR GIOVANNI:** Izzy. Welcome, Izzy.
13 I'm glad to see you.

14 Commissioner Miyasato, where are you
15 located? I've lost track.

16 **COMMISSIONER MIYASATO:** I'm here. Just
17 myself.

18 **CHAIR GIOVANNI:** Okay. Great.

19 And let me acknowledge that Commissioner
20 Giovanni, I, am by myself.

21 Commissioner Hayashida is in the
22 conference room. Is that correct?

23 **COMMISSIONER HAYASHIDA:** Correct, Chair.

24 **CHAIR GIOVANNI:** Very good. Thank you.

25 So staff has informed me that the IT

1 Department, Information Technology Department, will
2 be conducting network wiring today at the State
3 Office Tower, which will -- which may cause
4 interruptions. I'm therefore recommending that we
5 reprioritize Agenda Item 4 to be heard first on --
6 on the -- the agenda -- on the -- for today's
7 meeting, and then we'll follow by the remaining
8 items in the order listed on the agenda.

9 Ms. Steed, do I need a motion for -- for
10 this reordering of the agenda, or can I, as Chair,
11 ask for it if whether -- just whether or not we have
12 any opposition to it by the parties?

13 **MS. STEED:** You, as Chair, have the power
14 to reorder the agenda.

15 **CHAIR GIOVANNI:** Okay. So I'm going to
16 reorganize the agenda to put item -- the Grace
17 Pacific LLC item next.

18 So, Commissioners, does anybody have any
19 opposition to this move? If so, let me know.

20 Okay.

21 Parties, I would like you to introduce
22 yourself, and when you introduce yourself, please
23 let me know if you have any objections to the
24 reordering of this item. So this would be SP73-147
25 Grace Pacific LLC, formerly Pacific Concrete and

1 Rock Company Limited, Makakilo Quarry, Oahu.

2 Today is the adoption of the draft Land
3 Use Commission findings of fact, conclusions of law,
4 and decision and order for application to modify
5 SP73-147.

6 So I'm asking the parties to please
7 identify themselves for the record and whether or
8 not you're prepared to move forward with this item
9 at this time, starting with the petitioner, Mr.
10 Chipchase.

11 **MR. CHIPCHASE:** Yes, Chair. Cal
12 Chipchase, good morning. Good morning,
13 Commissioners. I see in the room Wyeth Matsubara,
14 Scott Komatsu, and Myles Mizokami as well. We have
15 no objection to proceeding with this matter at this
16 time.

17 **CHAIR GIOVANNI:** Thank you very much.
18 City and County of Honolulu, please
19 identify yourself and whether or not you have any
20 objection to proceed.

21 **MS. SENDAO:** Good morning, Commissioners.
22 Patricia Sendao on behalf of the City and County of
23 Honolulu. No objections to proceeding at this time.
24 Thank you.

25 **CHAIR GIOVANNI:** Thank you very much.

1 Office of Planning and Sustainable
2 Development, identify yourself and whether you have
3 any objections to proceed.

4 **MS. KATO:** Good morning. Alison Kato,
5 Deputy Attorney General and Katia -- Katia
6 Balassiano from Office of Planning and Sustainable
7 Development. No objections. Thank you.

8 **CHAIR GIOVANNI:** Thank you very much.

9 So we will proceed with this agenda item
10 at this time.

11 So, first, I'd like to go over the
12 reimbursement policy.

13 Good morning, Mr. Chipchase. Good to see
14 you again via Zoom.

15 Have you reviewed HAR Section 15-15-45.1
16 regarding the reimbursement of hearing expenses?

17 **MR. CHIPCHASE:** Cal Chipchase. Good to
18 see you too, Chair, over Zoom. I'm joining the
19 commission from Kansas City.

20 I -- I have reviewed the policy, and we do
21 agree.

22 **CHAIR GIOVANNI:** Thank you very much.

23 Now it's time for any disclosures of --
24 and conflicts of interests. In accordance with HRS
25 84-14, commissioners are not allowed to take any

1 official action, affect any business in which they
2 were a member or their family has a financial
3 interest. They must therefore recuse themselves
4 from this matter if there's any benefit, monetary or
5 otherwise, to themselves or members of their family.

6 Also, in accordance with legal ethical
7 standards, commissioners should disclose any
8 relationship, business, social, or otherwise, that
9 they may have with the petitioner or its
10 representatives, or any other parties in this
11 proceeding that may give rise to an allegation of
12 bias or impropriety.

13 Do any of the commissioners have any
14 conflicts of interest or disclosures to make at this
15 time?

16 And let me clarify, I think, Commissioner
17 Hayashida had indicated previously this is the
18 matter he wished -- intended to recuse himself. Is
19 that correct, Commissioner?

20 **MR. WONG:** Chair, because he already said
21 he's going to recuse himself, he recused himself
22 from the -- this portion of the meeting.

23 **CHAIR GIOVANNI:** So he is not on premises
24 for this portion?

25 **MR. WONG:** He is not in the office or the

1 building -- the conference room.

2 **CHAIR GIOVANNI:** Very well, thank you.

3 Other Commissioners, any disclosures or
4 statements of conflict of interest at this time?

5 So, Mr. Wong, I can't see -- the --
6 anybody in that room clearly. So just indicate yes
7 or no if anybody raises their hand for me.

8 **MR. WONG:** Excuse me, Chair. Can you go
9 -- go through that again one more time?

10 **CHAIR GIOVANNI:** So when I ask if any
11 commissioners have any disclosures to make, I can
12 see the ones on Zoom. I cannot see the ones in the
13 room. They're too small, so --

14 **MR. WONG:** Mr. -- it's only Mr. Lee, now,
15 Commissioner Lee. And he doesn't have anything to
16 disclose. He didn't raise his hand.

17 **CHAIR GIOVANNI:** Very good.

18 So we have no -- other than Commissioner
19 Hayashida, there's no one -- everyone will
20 participate.

21 Is there any indication that Commissioner
22 U'u has showed up?

23 **MR. WONG:** No, Chair.

24 **CHAIR GIOVANNI:** Okay. We'll proceed.

25 So let me briefly explain the procedure.

1 First, I will recognize the written public testimony
2 that has been submitted in this matter. Next, I
3 will call for members of the public who wish to
4 provide oral testimony on this matter.

5 After completion of the public testimony
6 portions of the proceedings, the Chair would like to
7 ask the parties if they had any comments on the
8 adoption of the order.

9 At the conclusion of the parties' comments
10 and commissioners' questions, the public will again
11 be granted the opportunity to provide public
12 testimony in the same manner set forth previously.
13 Finally, the commission will conduct its
14 deliberations.

15 Reference for the record, please be
16 informed that the relevant records and documents
17 pertaining to this matter can be accessed for review
18 on the LUC website at -- and I'm going to say this
19 twice -- <https://luc.hawaii.gov/sp73-147>.

20 That is <https://luc.hawaii.gov/sp73-147>.

21 We'll now proceed with public testimony.
22 I will recognize written public testimony submitted
23 in this matter.

24 Mr. Derrickson, has there been any written
25 testimony submitted on this matter?

1 **MR. DERRICKSON:** Yes, Chair. This morning
2 we received written testimony from the Office of
3 Planning and Sustainable Development. It is
4 currently posted to our website.

5 **MR. WONG:** Chair, we also had written
6 testimony from Ana Tuiasosopo.

7 **MR. DERRICKSON:** But not on -- it wasn't
8 on this agenda item, Chair.

9 **CHAIR GIOVANNI:** So --

10 **MR. WONG:** Sorry, Chair. My mistake.

11 **CHAIR GIOVANNI:** It's okay. So on this
12 agenda item, we've got the one item that was
13 submitted in writing from OPSD. Is that correct?

14 **MR. DERRICKSON:** That's correct.

15 **CHAIR GIOVANNI:** And it has been posted.
16 Thank you.

17 Are there any members of the public who
18 have indicated they wish to identify on this matter?

19 Mr. Wong.

20 **MR. WONG:** Chair, there's no one in the
21 conference room nor on Zoom that raised their hand.

22 **CHAIR GIOVANNI:** So that means we have
23 none.

24 Now, I like to proceed with the
25 presentations, and starting with the petitioner for

1 your comments with -- regarding the adoption of the
2 order, Mr. Chipchase.

3 **MR. CHIPCHASE:** Thank you, Chair. Cal
4 Chipchase. I have not seen and was not aware of
5 OPSD's comments, and so when OPSD -- or when my turn
6 passes, I'll do my best to pull them up and read
7 them, but I would appreciate an opportunity to -- to
8 comment on them if -- if necessary, after OPSD'S
9 presentation or discussion.

10 For our part, we don't request any changes
11 to the proposed order by the Land Use Commission
12 staff. I do want to comment on one finding simply
13 to provide clarity for the record: That's Finding
14 of Fact 8, on page 11 of the draft decision.

15 At the fourth line down, Finding of Fact 8
16 references, quote, and the development of a burial
17 treatment plan.

18 When discussing the Department of Planning
19 and Permitting for the City and County of Honolulu's
20 report and recommendation on Grace Pacific's
21 application to amend the quarry permit, that
22 recommendation to develop a burial treatment plan
23 was not carried forward into the Planning
24 Commission's recommended decision, nor is it carried
25 forward into this draft decision, and that is

1 because in discussions with DPP, DPP recognized that
2 that reference was actually technically incorrect.

3 A burial treatment plan is only prepared
4 when iwi are discovered as part of an archaeological
5 inventory survey previously identified burials.

6 None were identified during our
7 archaeological inventory survey. Therefore, if any
8 iwi were identified inadvertently during the
9 operation of the quarry -- and let me be clear, no
10 one anticipates that. There is no indication that
11 that will occur. But if it did occur, those iwi
12 would be addressed in a report that is known as a
13 Burial Site Component of either a data recovery plan
14 or a preservation plan, and that's under HAR 13-300-
15 40(f). Those are the SHPD rules governing an
16 inadvertent discovery of iwi during construction or
17 other activities.

18 So that reference to the burial site or
19 burial treatment plan was incorrect, and it simply
20 was not carried forward because of that issue. In
21 all other respects, the report and recommendations
22 carried through to the Planning Commission are
23 correct and carried through to this order are
24 correct as well, including the provisions dealing
25 with Chapter 60 and the protection of historic

1 properties.

2 With that clarification, Chair, I have no
3 further comments subject to requesting the ability
4 to comment in response to OPSD, if necessary.

5 **CHAIR GIOVANNI:** So if I understand you
6 correctly, Mr. Chipchase, you're -- you're satisfied
7 with the clarification being on the record as
8 opposed to an amendment of the actual order?

9 **MR. CHIPCHASE:** Correct, Chair.

10 **CHAIR GIOVANNI:** Thank you very much.
11 Does that complete your comment?

12 **MR. CHIPCHASE:** It does, Chair.

13 **CHAIR GIOVANNI:** Okay. Parties have any
14 -- Commissioners have any questions on the comments
15 made by Mr. Chipchase, starting with City and
16 County?

17 **MS. SENDAO:** Apologies --

18 **CHAIR GIOVANNI:** Yeah.

19 **MS. SENDAO:** -- Patricia Sendao -- Sendao
20 for the County. No comments for Petitioner. Thank
21 you.

22 **CHAIR GIOVANNI:** Thank you.

23 OPSD, any comments or questions for the
24 petitioner?

25 **MS. KATO:** Alison Kato. No comments.

1 Thank you.

2 **CHAIR GIOVANNI:** Thank you.

3 **MS. KATO:** Or questions.

4 **CHAIR GIOVANNI:** Commissioners, any
5 questions, comments for the petitioner?

6 Seeing none, we'll proceed. Thank you
7 very much.

8 Let's go now to the City and County for
9 comments on the order.

10 **MS. SENDAO:** Patricia Sendao for the City
11 and County of Honolulu. I have taken a quick moment
12 here to look at OPSD's proposed revisions, and we
13 have no objection to those, I believe, two additions
14 that they would like to make with respect to
15 clarifying their own position that they made on the
16 record at the last hearing. And no further changes
17 from our part. Thank you.

18 **CHAIR GIOVANNI:** Thank you.

19 Mr. Chipchase, any questions for the City
20 and County?

21 **MR. CHIPCHASE:** Cal Chipchase. No
22 questions, Chair.

23 **CHAIR GIOVANNI:** Ms. Kato, any questions
24 for the City and County?

25 **MS. KATO:** Alison Kato. No questions.

1 Thank you.

2 **CHAIR GIOVANNI:** Commissioners, any
3 questions for the City and County?

4 Seeing none. Thank you.

5 OPSD, Miss Kato, your comments, please, on
6 the order.

7 **MS. KATO:** Thank you. Alison Kato. We
8 submitted just two revisions, mainly just to clarify
9 our position as the -- the County said, and I guess
10 for the benefit of those who have not seen it yet, I
11 can read them out.

12 And there are two: Findings of Fact 14,
13 on page 7, and it -- that is the findings of fact
14 that notes are OPSD's filing of their memorandum of
15 -- to approve the petition. And we added after that
16 but expressed concerns about the proposed changes to
17 final closure plans, OPSD recommended the
18 continuation of previous final closure commitments
19 detailed in Finding of Fact 40 from the 2008
20 proceedings.

21 And that's just what was in our position,
22 and to -- we just added it to provide a more
23 accurate record of our position.

24 And in -- in Findings of Fact Number 21,
25 on page 8, just the addition of one -- of OPSD

1 presented the decision expressed in their August
2 14th, 2024, memorandum.

3 Those are the only two changes, and
4 they're just for clarification purposes. No other
5 comments. Thank you.

6 **CHAIR GIOVANNI:** Thank you. And I
7 appreciate you clarifying that.

8 So Commissioner -- not Commissioner -- but
9 Mr. Chipchase, any questions for the OPSD?

10 **MR. CHIPCHASE:** Cal Chipchase. And I,
11 too, appreciate that, Ms. Kato. Thank you for
12 walking me through those changes.

13 No questions.

14 **CHAIR GIOVANNI:** So you previously, Mr.
15 Chipchase, stated you wanted to reserve the right to
16 comment on those. Are you satisfied now?

17 **MR. CHIPCHASE:** I am. And we have no
18 objection.

19 **CHAIR GIOVANNI:** Thank you very much.
20 City and County, any questions or comments
21 further on OPSD?

22 **MS. SENDAO:** Patricia Sendao. No further
23 comments or questions. Thank you.

24 **CHAIR GIOVANNI:** Very good.
25 Commissioners, any comments or questions

1 for OPSD?

2 Great. Seeing none.

3 At this point, I'd like to give the public
4 an opportunity for a second round of testimony.

5 So, Mr. Wong, have any members of the
6 public who wish to provide new additional testimony
7 on this matter -- have they showed up either in
8 person or in the panel?

9 **MR. WONG:** Chair, no one in the conference
10 room, and we don't have anyone on Zoom raising their
11 hands at this time.

12 **CHAIR GIOVANNI:** Okay. Great.

13 It's time -- then we'll proceed directly
14 to deliberations.

15 The commission will now consider the
16 adoption of the order.

17 Commissioners, before you and for your
18 consideration, deliberation, and adoption, are the
19 proposed findings of fact, conclusions of law, and
20 decisions and order presented by staff as instructed
21 at the meeting on this docket.

22 And I am now asking if there are any
23 discussions, including the possibility of amending
24 the order to include the revision suggested by OPSD,
25 and whether or not you are satisfied with the

1 clarification made by commissioner -- I mean the
2 petitioner Chipchase.

3 So the Chair will now entertain discussion
4 and a motion of how to proceed.

5 Commissioners, what is your pleasure?

6 **COMMISSIONER LEE:** Chair, this is
7 Commissioner Lee. I would like to ask the
8 petitioner's legal counsel their thoughts on OPSD's
9 testimony.

10 **CHAIR GIOVANNI:** Go ahead and ask it.

11 **COMMISSIONER LEE:** Mr. Chipchase, have you
12 reviewed, and do you have comments on OPSD's
13 testimony today?

14 **MR. CHIPCHASE:** Cal Chipchase. Thank you,
15 Commissioner.

16 I -- I have reviewed it, and I -- I have
17 no objection to it. It does express, in short form,
18 I think we had proposed a slightly longer
19 expression, but it does express, in short form,
20 OPSD's position, and that's perfectly acceptable to
21 me. I believe that the findings and the conclusions
22 accurately reflect the final closure conditions for
23 the property, and the additions by OPSD do not cause
24 me any concern or, in my view, require additional
25 findings or confirmation.

1 **COMMISSIONER LEE:** Okay. Thank you.

2 **CHAIR GIOVANNI:** Commissioners, somebody
3 want to make a motion for the adoption of the order?

4 **COMMISSIONER LEE:** Chair, I will make the
5 motion. This is Commissioner Lee.

6 I move that we adopt the findings of
7 facts, conclusions of law, and decision and order
8 for application to modify SP73-147 SUP Number
9 2007/SUP-6 with the amendments noted by the Office
10 of Planning and Sustainable Development.

11 **CHAIR GIOVANNI:** Thank you very much,
12 Commissioner Lee.

13 Do I have a second? Any Commissioners?
14 Commissioner Carr Smith.

15 **COMMISSIONER CARR SMITH:** Second.

16 **CHAIR GIOVANNI:** The motion is seconded by
17 Commissioner Carr Smith.

18 Commissioner Lee, please, if you wish to
19 add any comment in support of your motion?

20 **COMMISSIONER LEE:** No comments, Chair.

21 **CHAIR GIOVANNI:** Thank you.

22 Commissioner Carr Smith, any comment in
23 support of your second?

24 **COMMISSIONER CARR SMITH:** No comments.
25 Thank you.

1 **CHAIR GIOVANNI:** Commissioners, anything
2 further that you'd like to express in support of
3 this motion?

4 Seeing none, the Chair will support this
5 motion.

6 Mr. Orodenker, will you do the rollcall
7 vote for this motion, please?

8 **MR. ORODENKER:** Thank you, Mr. Chair.
9 This is Dan Orodenker, Executive Officer.

10 The motion is to adopt the findings of
11 fact, conclusions of law, and decision and order
12 with the amendments noted by OPSD.

13 Commissioner Lee?

14 **COMMISSIONER LEE:** Aye.

15 **MR. ORODENKER:** Commissioner Carr Smith?

16 **COMMISSIONER CARR SMITH:** Aye.

17 **MR. ORODENKER:** Commissioner Hayashida has
18 recused.

19 Commissioner Kahele.

20 **COMMISSIONER KAHELE:** Aye.

21 **MR. ORODENKER:** Commissioner Kamakea-
22 Ohelo.

23 **COMMISSIONER KAMAKEA-OHELO:** Aye.

24 **MR. ORODENKER:** Commissioner Miyasato.

25 **COMMISSIONER MIYASATO:** Aye.

1 **MR. ORODENKER:** Commissioner U'u.

2 **CHAIR GIOVANNI:** He's absent.

3 **MR. ORODENKER:** Oh, I'm sorry. Absent

4 still.

5 Okay. Commissioner Yamane.

6 **COMMISSIONER YAMANE:** Aye.

7 **MR. ORODENKER:** Chair Giovanni.

8 **CHAIR GIOVANNI:** Aye.

9 **MR. ORODENKER:** Thank you. Mr. Chair, the
10 motion carries unanimously.

11 **CHAIR GIOVANNI:** Thank you very much, and
12 thanks to the parties on this docket for your
13 preparation and your contributions. Very much
14 appreciated.

15 **MR. CHIPCHASE:** Thank you, Chair. Thank
16 you, members.

17 **CHAIR GIOVANNI:** So, Mr. Wong, is Mr. --
18 Commissioner Hayashida nearby? He could rejoin now
19 that we've completed that item.

20 **MR. WONG:** I'll bring him in now, sir.

21 Chair, Commissioner Hayashida is seated.

22 **CHAIR GIOVANNI:** Very good. Welcome.

23 Okay. Our next order of business is the
24 adoption of minutes from our meeting of August 21-
25 22, 2024.

1 Mr. Derrickson, has there been any written
2 testimony submitted on this -- on the minutes for
3 this August 21-22, 2024?

4 **MR. DERRICKSON:** No, Chair.

5 **CHAIR GIOVANNI:** Any members of the public
6 who have signed up to testify on this item?

7 **MR. WONG:** No one in Zoom or in -- in the
8 conference room, Chair.

9 **CHAIR GIOVANNI:** Okay. Commissioners, are
10 there any corrections or additions to the minutes --
11 draft minutes? And, if not, is there a motion to
12 adopt these minutes from August 21, 24 -- 2024?

13 Do I have a -- do I have a motion to adopt
14 the minutes?

15 **COMMISSIONER MIYASATO:** Chair?

16 **CHAIR GIOVANNI:** Who is that?

17 **COMMISSIONER MIYASATO:** Commissioner
18 Miyasato.

19 **CHAIR GIOVANNI:** Commissioner Miyasato,
20 you move to adopt the minutes. Thank you.

21 Do I have a second to the motion?

22 **COMMISSIONER CARR SMITH:** Second.

23 **CHAIR GIOVANNI:** Commissioner Carr Smith.
24 Thank you.

25 All in -- let's see, Commissioner

1 Miyasato, do you want to comment any further on --
2 on your motion?

3 **COMMISSIONER MIYASATO:** No, Chair.

4 **CHAIR GIOVANNI:** Okay. How about you,
5 Commissioner Carr Smith?

6 **COMMISSIONER CARR SMITH:** (Shakes head.)

7 **CHAIR GIOVANNI:** Okay. Commissioner
8 Kamakea-Ohelo, you have a comment?

9 **COMMISSIONER KAMAKEA-OHELO:** Yes, comment.
10 Mahalo, Chair. I will be -- I will not be voting in
11 this because I wasn't -- I wasn't there, present on
12 the 21st and 22nd; so mahalo.

13 **CHAIR GIOVANNI:** Okay. Thank you for that
14 clarification.

15 **COMMISSIONER YAMANE:** Mr. Chair?

16 **CHAIR GIOVANNI:** Commissioner Yamane.

17 **COMMISSIONER YAMANE:** Just note that I was
18 not there for the 22nd, so I also will be voting. I
19 was there on the 21st.

20 **CHAIR GIOVANNI:** Okay.

21 **COMMISSIONER HAYASHIDA:** Mr. Chair?

22 **CHAIR GIOVANNI:** Who's that?

23 **COMMISSIONER HAYASHIDA:** Commissioner
24 Hayashida. I will be recusing myself too from the
25 -- I wasn't at the meeting; so --

1 **CHAIR GIOVANNI:** Okay.

2 So Commissioner Yamane, you were there for
3 one but not the second? Is that what you said?

4 **COMMISSIONER YAMANE:** That's correct, Mr.
5 Chair.

6 **CHAIR GIOVANNI:** So how -- how -- because
7 he -- can he vote on the whole thing, or do we have
8 to take each day one at a time, Mr. Orodenger?

9 Mr. Orodenger, you look frozen.

10 **MR. ORODENKER:** Thank you, Mr. Chair. I
11 -- I would defer to the Deputy Attorney General on
12 that. I -- we haven't really had that situation
13 before; so --

14 **CHAIR GIOVANNI:** So Attorney General
15 Miranda Steed, could you advise us? Should we take
16 the -- this vote on one day at a time of the minutes
17 so that those who were present on the respective
18 days could vote?

19 **MS. STEED:** Yes, that's okay. Just make
20 sure that the votes -- the -- the recording of the
21 votes, either adopting or rejecting the minutes,
22 reflect that it was done based on day.

23 **CHAIR GIOVANNI:** Okay.

24 **MS. STEED:** It should be done as multiple
25 votes.

1 **CHAIR GIOVANNI:** Yeah. I'm going to do
2 multiple votes, and I'm going to -- I'm going to ask
3 Mr. Orodenker to actually poll the commissioners one
4 by one rather than a group voice vote just so
5 there's clarity.

6 **MS. STEED:** Yeah, that's fine.

7 **CHAIR GIOVANNI:** Okay. So I'm going to
8 entertain the motion that is before us to adopt the
9 minutes for both days, but we'll do the vote by one
10 day at a time.

11 So for the -- Mr. Orodenker, will you poll
12 the commissioners for their vote to approve the
13 minutes for August 21st?

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

15 The motion is to adopt the minutes for
16 August 21st.

17 I'm sorry. Commissioner Miyasato made the
18 motion and --

19 **CHAIR GIOVANNI:** Commissioner Carr Smith

20 --

21 **MR. ORODENKER:** -- Commissioner Carr Smith
22 seconded.

23 Commissioner Miyasato.

24 **COMMISSIONER MIYASATO:** Aye.

25 **MR. ORODENKER:** Commissioner Carr Smith.

1 **COMMISSIONER CARR SMITH:** Aye.

2 **MR. ORODENKER:** Commissioner Hayashida,
3 are you recusing yourself from -- from adoption of
4 those minutes? Is that correct?

5 **COMMISSIONER HAYASHIDA:** Hayashida.
6 Correct.

7 **MR. ORODENKER:** Commissioner Kahele.

8 **COMMISSIONER KAHELE:** Aye.

9 **MR. ORODENKER:** Commissioner Kamakea-
10 Ohelo, you are also recusing yourself?

11 **COMMISSIONER KAMAKEA-OHELO:** (Nods head.)

12 **CHAIR GIOVANNI:** He nodded his head, but I
13 haven't heard him. So you have to voice it --

14 **MR. ORODENKER:** Okay.

15 **COMMISSIONER KAMAKEA-OHELO:** Yes, I am
16 recusing myself. Mahalo.

17 **MR. ORODENKER:** Commissioner Lee.

18 **COMMISSIONER LEE:** Aye.

19 **MR. ORODENKER:** Commissioner U'u is
20 absent.

21 Commissioner Yamane.

22 **COMMISSIONER YAMANE:** Aye.

23 **MR. ORODENKER:** Chair Giovanni.

24 **CHAIR GIOVANNI:** Aye.

25 **MR. ORODENKER:** Thank you. Mr. Chair, the

1 motion passes. Five votes.

2 **CHAIR GIOVANNI:** Okay. So do we have
3 enough commissioners that could vote on the second
4 day, please?

5 **MR. ORODENKER:** Are you asking for another
6 motion, Chair? I -- for clarification --

7 **CHAIR GIOVANNI:** No. Same motion, but we
8 want to do a rollcall vote on the August 22nd
9 minutes.

10 **MR. ORODENKER:** Okay. Commissioner
11 Miyasato.

12 **COMMISSIONER MIYASATO:** Aye.

13 **MR. ORODENKER:** Commissioner Carr Smith.

14 **COMMISSIONER CARR SMITH:** Aye.

15 **MR. ORODENKER:** Commissioner Hayashida is
16 recused.

17 Commissioner Kahele.

18 **COMMISSIONER KAHELE:** Aye.

19 **MR. ORODENKER:** Commissioner Kamakea-Ohelo
20 is recused.

21 Commissioner Lee.

22 **COMMISSIONER LEE:** Aye.

23 **MR. ORODENKER:** Commissioner U'u is
24 absent.

25 Commissioner Yamane. Recusing yourself

1 from the second -- from these minutes.

2 **COMMISSIONER YAMANE:** That's correct.

3 **MR. ORODENKER:** Chair Giovanni.

4 **CHAIR GIOVANNI:** Aye.

5 **MR. ORODENKER:** Motion passes with five
6 votes.

7 **CHAIR GIOVANNI:** Okay. Could you clarify
8 the first day? Was that six votes or five?

9 **MR. ORODENKER:** My -- my -- my mistake,
10 Mr. Chair. The first day was six votes.

11 **CHAIR GIOVANNI:** Very good. So both days
12 have been approved. Thank you.

13 **MR. ORODENKER:** Thank you.

14 **CHAIR GIOVANNI:** Okay. Our next agenda
15 item is a tentative meeting schedule.

16 Mr. Orodenker?

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

18 On September 11th through 13th, we are
19 going to be at the HCPO at Hapuna Beach Resort on --
20 on -- in -- on the Big Island. Currently, September
21 25th and 26th is open.

22 On October 10th, we will be at the airport
23 to hear the Mahi Solar matter and the RK II
24 declaratory ruling matter.

25 On October 23rd, we'll be having OPSD

1 present their -- give their presentation.

2 On October 24th, we will -- assuming
3 things go well on the 10th -- be adopting the orders
4 -- order for RK II Partners and Mahi Solar.

5 On October 6th -- on November 6th, we will
6 be on Maui for the A and B Properties, Inc., motion.

7 On November 7th, we will be on Oahu by
8 Zoom meeting for the Mahi Solar adoption. I'm
9 sorry, I misstated the prior -- prior date.

10 On November 20th, we will be -- again be
11 on Maui for the addition and removal of IAL
12 designation by the County of Maui.

13 On the 21st, we will be hearing Emmanuel
14 Lutheran status report, again, on Maui.

15 December is currently open. And that
16 takes us through the end of the year.

17 **CHAIR GIOVANNI:** Could you restate the
18 first day in November?

19 Mr. Orodenger, you're frozen again.

20 **COMMISSIONER CARR SMITH:** Chair, I believe
21 he said November 6th on Maui to hear A and B.

22 **MR. ORODENKER:** That is correct.

23 **CHAIR GIOVANNI:** Okay. Thank you for that
24 clarification.

25 **COMMISSIONER YAMANE:** Mr. Chair?

1 **CHAIR GIOVANNI:** Who is that?

2 **COMMISSIONER YAMANE:** Commissioner Yamane.

3 Question for Mr. Orodenger. On the 23rd
4 of October, OPSD -- I know there is discussion
5 whether that was going to be Zoom or live. Is that
6 -- is that on Oahu or is that -- what --

7 **MR. ORODENKER:** That can be done by Zoom.
8 We're actually planning to do that by Zoom.

9 **COMMISSIONER YAMANE:** Thank you.

10 **MR. WONG:** Chair, this is Arnold Wong.

11 **CHAIR GIOVANNI:** Mr. Wong.

12 **MR. WONG:** I just wanted to inform you
13 that Commissioner U'u came on line.

14 **CHAIR GIOVANNI:** Oh, thank you. Welcome,
15 Commissioner U'u. Good to see you.

16 **COMMISSIONER U'U:** Aloha, everybody.
17 Sorry for being late.

18 **CHAIR GIOVANNI:** No worries.

19 **COMMISSIONER U'U:** I didn't make my final
20 destination, but I'm close enough. Put it that way.

21 **CHAIR GIOVANNI:** So, Mr. U'u, we've been
22 advised of a new rule of anybody that participates
23 by Zoom in our meetings, any commissioner has to
24 identify whether or not there are additional adults
25 in the room where you are connecting from. So can

1 you clarify?

2 **COMMISSIONER U'U:** I wish there was, but
3 there is none. So my wife left for now. So just to
4 -- on my vacation, by the way. Maybe she enjoyed it
5 more than she should, but hey, that's what's --
6 that's what it's at right now; so --

7 **CHAIR GIOVANNI:** Okay. Very good. Thank
8 you.

9 Okay. So --

10 **COMMISSIONER CARR SMITH:** Chair?

11 **CHAIR GIOVANNI:** Who is that?

12 Commissioner Carr Smith. Please --

13 **COMMISSIONER CARR SMITH:** Sorry, I had a
14 couple of comments about the calendar items.

15 I was just wondering about, yeah, at the
16 last meeting, we talked about that OPSD meeting and
17 it was scheduled for October 10th. And I requested
18 to be in-person, OPSD asked for it to be in-person,
19 and then the next week I saw that it had been
20 changed to October 23rd.

21 Is OPSD aware of the change?

22 **CHAIR GIOVANNI:** So I have the same
23 question because I cannot attend on the 23rd, and I
24 also preferred an in-person meeting. So I share
25 Commissioner Carr Smith's inquiry.

1 So, Mr. Orodenger, what's going on with
2 this change on the --

3 **MR. ORODENKER:** Well, I'm sorry,
4 Commissioners. I mean, we can -- we can adjust that
5 since it's not an -- an action item. We could not
6 get quorum on the 9th, so we moved the RK II
7 Partners and the Mahi Solar matter to the 10th, and
8 that pushed the OPSD presentation to the --

9 **CHAIR GIOVANNI:** So let me request that
10 the OPSD presentation be an in-person presentation,
11 number one. And, number two, please poll the
12 commissioners again -- not right now, but
13 independently, later, to confirm that you can get a
14 quorum for an in-person meeting at a suitable date
15 in the future.

16 **MR. ORODENKER:** We will do that, Mr.
17 Chair. Thank you.

18 **CHAIR GIOVANNI:** Okay.

19 **COMMISSIONER CARR SMITH:** Chair?

20 **CHAIR GIOVANNI:** Yes, Commissioner Carr
21 Smith.

22 **COMMISSIONER CARR SMITH:** Can we -- can we
23 please ask OPSD if they were aware of the change?

24 **CHAIR GIOVANNI:** Ms. Kato, were you aware
25 of the change from October 10th in-person meeting to

1 October 23 Zoom?

2 **MS. KATO:** Alison Kato. No, OPSD, was not
3 aware. So they would need to check their schedule
4 too.

5 **CHAIR GIOVANNI:** Okay. Let's confirm with
6 them as well.

7 **MR. ORODENKER:** Will do, Mr. Chair.

8 **CHAIR GIOVANNI:** Let me just state that
9 the -- that we -- we regularly, at our hearings,
10 have this schedule presentation, and there's an
11 important word in this agenda item, and that's the
12 word "tentative." So we ask the -- the executive
13 officer to present the tentative schedule, and it's
14 for -- very much for purposes like we just went
15 through where there are issues that can surface, and
16 we recognize those up-front ahead of time.

17 So this agenda item is not perfunctory,
18 it's really important. So if you -- any
19 commissioners have issues with the tentative
20 schedule, I encourage you today, and in future
21 meetings, to raise them for the benefit of
22 everybody. So thank you.

23 **COMMISSIONER LEE:** Chair, this is
24 Commissioner Lee.

25 **CHAIR GIOVANNI:** Commissioner Lee, go

1 ahead.

2 **COMMISSIONER LEE:** I'd like to make a
3 comment. You know, the -- the schedule is made a
4 year in advance -- sometimes we have tentative
5 schedules. And we all -- we're all busy, we all try
6 to coordinate our times to make it when we're
7 supposed to so that we can work efficient.

8 So, you know, as much as possible we
9 shouldn't move the schedule too much because, you
10 know, someone cannot attend if there are alternates,
11 such as, you know, vice chairs that can run the
12 meeting. So just want to make the comment.

13 **CHAIR GIOVANNI:** Yeah, very fair. But --
14 but just so, you know, I've -- these meeting dates
15 of October 23 and 24, I know that I have -- we get
16 surveyed by Ms. Kwan in terms of our availability.
17 I don't see the compilation of those surveys. But I
18 think that most of the movement has been on the --
19 the dates moving around, not the availability of
20 commissioners moving around. That's my impression.

21 **MR. ORODENKER:** Yeah. I -- if I can
22 comment, Mr. Chair. This is Dan Orodenker again.

23 What has caused so much turmoil with our
24 calendar and schedule over the past couple of months
25 has been the submission of three special permits at

1 various times, and we try and work with the County
2 on when we will be receiving those. But sometimes
3 the Planning Commission takes longer than we expect,
4 and that pushes the schedule around. And the
5 special permits, we don't have much leeway because
6 there's only a five -- 45 days before we have to
7 hear them. And -- and I apologize to the commission
8 if these past couple of months have seemed somewhat
9 tumultuous, but that is what's been driving the
10 agenda, is the County's timing on their submissions
11 and our need to get them done in 45 days.

12 **CHAIR GIOVANNI:** Commissioner Carr Smith.

13 **COMMISSIONER CARR SMITH:** Just a final
14 comment. I just ask the staff to please be mindful
15 and respectful of other departments such as OPSD and
16 keep them informed of what the schedule perhaps is.
17 Thank you.

18 **MR. ORODENKER:** Thank you, Commissioner
19 Carr Smith. I believe that the discussion may have
20 taken place at a -- I don't want to say "a lower
21 level" -- at the -- the secretarial level with
22 regard to this, and that's why there may be some
23 confusion. So I apologize for that.

24 **CHAIR GIOVANNI:** Okay. So, Mr. Orodenker,
25 following today's meeting, where can we -- where can

1 the commissioners observe the updated, revised, and
2 most current form of the schedule for the remainder
3 of the year?

4 **MR. ORODENKER:** It -- it is posted. It's
5 always on the website, and it's updated weekly if
6 there are any changes. So I would refer the
7 commissioners to the website and the calendar on the
8 website.

9 **CHAIR GIOVANNI:** Yeah. So there -- there
10 are going to be changes based on the conversations
11 that we just had relative to October 23. So when
12 will -- when will those updates appear?

13 **MR. ORODENKER:** Well, probably next week
14 sometime. We have to poll all the commissioners and
15 then we have to have a discussion with the OPSD on
16 their availability; so --

17 **CHAIR GIOVANNI:** Okay.

18 **MR. ORODENKER:** -- we will make those
19 changes as soon as we finalize them.

20 **CHAIR GIOVANNI:** Okay. Can I just ask
21 that you send -- you or Ms. Kwan or somebody send an
22 email to all commissioners on -- on the -- when the
23 -- when the posted calendar has been updated?

24 **MR. ORODENKER:** Every time? Or just this
25 time?

1 **CHAIR GIOVANNI:** No, just this next time.
2 So if it's up to -- we're at a critical time right
3 here in the remainder of this year, especially with
4 these three special permits coming in, so when you
5 update it next week, whether it be Monday, Tuesday,
6 Thursday, whatever that day is, please send a --
7 just a brief email that it's been updated and we can
8 find it, that'd be great.

9 **MR. ORODENKER:** We -- we will do so, Mr.
10 Chair.

11 **CHAIR GIOVANNI:** Okay. Great. Thank you.

12 **COMMISSIONER LEE:** Chair, this is
13 Commissioner Lee. I apologize. Myself and
14 Commissioner Hayashida, we're not clear on the
15 September 25th and 26th. Is that still a tentative
16 at this point?

17 **MR. ORODENKER:** We don't have anything
18 scheduled for those dates. But, once again, we're
19 being buffeted by what's happening at the County and
20 the special permits, so we have not released those
21 days yet. We will make a decision on that in the
22 next week.

23 **COMMISSIONER LEE:** Okay. Thank you.

24 **CHAIR GIOVANNI:** Yeah, I will not be
25 available those days as the Chair, for your

1 information.

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

3 We'll take that into account.

4 **CHAIR GIOVANNI:** Thank you.

5 Commissioners, anything further on the
6 meeting schedule?

7 Thank you.

8 Just let me do a time check here. So, Mr.
9 Wong, how much time do you need for your
10 presentation for the next agenda item, which is the
11 Land Use Commission Update from the Development
12 Coordinator?

13 **MR. WONG:** Chair, it'll be only two
14 minutes from me, and I don't know how many Q and A.

15 **CHAIR GIOVANNI:** Okay. So let's proceed
16 with that.

17 The next agenda item is the Development
18 Coordinator Update. This has been requested by the
19 Commission. Next -- so let me turn that -- is that
20 to you, Mr. Wong, or to someone else?

21 **MR. WONG:** That's to me, Chair, but I just
22 wanted to ask if there is -- there's no public
23 testimony in the conference room on this agenda
24 item, and I don't see anyone on Zoom.

25 **CHAIR GIOVANNI:** Okay. So I was going to

1 get to that next. So there's no -- just to confirm,
2 is there anyone which -- has there been any written
3 -- Mr. Derrickson, has been any written testimony on
4 this agenda item?

5 **MR. DERRICKSON:** No, Mr. Chair.

6 **CHAIR GIOVANNI:** Is there anyone present
7 who wishes to publicly testify on this item?

8 **MR. DERRICKSON:** No, Mr. Chair.

9 **CHAIR GIOVANNI:** Okay. So, now, I will
10 turn it over to Mr. Wong.

11 **MR. WONG:** Thank you, Mr. Chair.

12 Just want to thank you and the
13 commissioners for allowing me this opportunity to
14 give you an update on what I've been doing.

15 I will keep this information at a very
16 high level due to the fact that this body is a
17 quasi-judicial, and any information that may come in
18 the future to -- to you all, the commission, I don't
19 want to exclude any of you guys from being, you
20 know, to an ex parte communication. So, you know,
21 that's why I'm just trying to keep it at a very high
22 level.

23 I'm not saying who I talked to, you know,
24 what company, et cetera, just in case one of you may
25 be approached because you have a friend that says,

1 "Hey, I heard Arnold talk to us," and then you say,
2 "Oh, he's -- he's doing this, he's doing this," and
3 then you have to excuse yourself for that type of ex
4 parte communication. So I'm just going to keep it
5 at a very high level, Chair, if you don't mind.

6 **CHAIR GIOVANNI:** That's fine. But the
7 commissioners may have questions -- be even a bit
8 more specific than you intended, so let's just try
9 it and see how -- how it happens.

10 **MR. WONG:** Yes, Chair.

11 To this date, after reviewing various
12 dockets, I have concluded -- for various reasons,
13 including issues with financing, water, and others
14 -- that, you know, there are problems with some of
15 our dockets. An example of this is a project that
16 we converted from ag to urban in the 1980s, but
17 nothing has been done and there has been ownership
18 changes.

19 This -- the new owners -- sorry, I'm not
20 going to say what island -- looked at the cost of
21 the infrastructure loan recently, and they were --
22 and I was blown away, to tell you the truth.

23 The infrastructure at the time of the
24 change of the land use designation was approximately
25 6 million. Now it's 60 million, just on

1 infrastructure loan -- not vertical construction.

2 And that to me, just blew me away. And this was in
3 -- from 1980s to now.

4 So, currently, they are looking for
5 financing and developers because, you know, no one
6 has 60 million in their wallet to say: "Here's 60
7 million, no problem. Let's do it now."

8 I mean, it's -- it's just -- to me, it's
9 hard to imagine 60 million for any of us. So with
10 -- I have assisted in giving them some leads and
11 government leads, for example, HHFDC that has some
12 infrastructure grants and loans.

13 Also, recently, OPSD received a grant from
14 the federal government that they're working on for
15 infrastructure. We're awaiting the RFP, or whatever
16 comes out from them, but I'm going to give them --
17 say, "Hey, contact OPSD, also, for this."

18 But, you know, I'm -- I'm holding until
19 the RFP comes out. Then I'll send them the
20 information to OPSD -- or send them the information
21 from OPSD, and they can contact OPSD directly if,
22 you know, that RFP fits their needs.

23 Also, I've been in communication with the
24 owners and developers and attorneys on several
25 projects that have started to get back on track.

1 This was by facilitating with owners and various
2 organizations and state agencies such as DOT, HHFDC,
3 HIEMA, et cetera, to address each concern starting
4 building housing for the people of Hawaii.

5 For example, one project forgot to -- was
6 trying to talk to HIEMA, which is, you know, making
7 that signals, the sirens, and somehow that
8 communication got broken and they were just waiting,
9 so they couldn't start construction because they
10 needed a plot of land to put that signal -- that
11 siren.

12 So I got in touch with HIEMA, and they
13 started to talk again. And for your information,
14 HIEMA went to the site -- I'm going to say on a
15 neighbor island -- and they finally got a piece of
16 land for the siren. So that project is now back on
17 track, and hopefully -- well, I shouldn't say
18 "hopefully," but they are going to break ground
19 soon. So that's the good part, ground break, et
20 cetera.

21 Also, for your information, several
22 projects needed permits to start construction,
23 subdivision, et cetera, and in the near future --
24 they're in that process going through the -- the
25 various councils and/or planning departments. So it

1 is in -- it is in that stage, which is good. So
2 they're in that track. And so we'll see how it goes
3 from there, but we'll -- I'm keeping my eyes out on
4 them. I'm contacting them every quarter.

5 So I just wanted to give you an estimation
6 that in -- I've touched at least -- or we, the Land
7 Use Commission, has touched approximately 19,000
8 units to date. And that's it, Chair.

9 **CHAIR GIOVANNI:** So -- so could you
10 further clarify the last statement, 19,000 units?
11 What -- how -- how should we interpret what you say?

12 **MR. WONG:** So from -- let me put it this
13 way. Some of the dockets have been very vague in
14 sense of we are not -- you're going to build this
15 units. It doesn't say multi-family, single-family,
16 affordable. It's just saying "units," period. So I
17 cannot tell you, like, they're going to build 10
18 affordable, 100 -- 100 multi-family, et cetera. So
19 I'm just using the word "units" just because units
20 could be multi-family and/or single-family because
21 older dockets are very vague in this sense.

22 The other thing too is some of them had a
23 statement to say we will build affordable up to the
24 City and County standards at that time -- or the
25 County -- sorry. Not City and County, but County.

1 So the affordable at that time could have
2 been 10 percent. Well, let's say the affordable
3 units percentage now could be 20 percent. So, you
4 know, it -- it's a very -- it changes the numbers.
5 So I cannot really say how much units are
6 affordable, so that's why I'm just using 19,000 in
7 general.

8 **CHAIR GIOVANNI:** So of those 19,000, how
9 many projects are you talking about that you've
10 looked at? I mean, how many projects?

11 **MR. WONG:** I want to say --

12 **CHAIR GIOVANNI:** -- 19,000? Is it one
13 project or is it 100 projects or what?

14 **MR. WONG:** It's around 25 dockets, Chair.

15 **CHAIR GIOVANNI:** So 25 dockets would be an
16 average of around six or seven hundred units per
17 docket on average, roughly. Right?

18 **MR. WONG:** That's on average. But some of
19 them is -- could be only 50 units while another
20 could be 600 units.

21 **CHAIR GIOVANNI:** Or even more, if
22 possible.

23 **MR. WONG:** It -- it's a really -- because
24 some of them are only 15 acres while others could be
25 thousands of acres. That's the problem we have with

1 some of our older dockets.

2 **CHAIR GIOVANNI:** So without divulging any
3 information that would be of concern to you, for the
4 project that you looked at where the infrastructure
5 costs went to over 60 million, how many units were
6 involved there?

7 **MR. WONG:** I'm going to say approximately
8 a thousand. And they're changing that number again
9 because of the cost factor. And they are also
10 looking at probably phasing that just because of the
11 cost again.

12 **CHAIR GIOVANNI:** Okay. Commissioners,
13 comments and questions for Mr. Wong?

14 **COMMISSIONER LEE:** Chair, Commissioner
15 Lee. I have some questions for Mr. Wong.

16 **CHAIR GIOVANNI:** Please proceed. Yeah,
17 please proceed.

18 **COMMISSIONER LEE:** Okay. I'll just call
19 you "Arnold" since I know you for so long.

20 When you started doing this updating of
21 the status and everything, is -- or, basically, in
22 your role, are you just cut loose to do what you
23 think is right, or has the executive officer given
24 you a plan that he's directing you to pursue?

25 **MR. WONG:** The only plan he gave me, to

1 tell you the truth, Commissioner, is let's look at
2 Maui first just because of the need -- of the
3 wildfire.

4 So I started at Maui. But, also, due to
5 -- Commissioner Carr Smith, I said we have to look
6 at the other islands, so I started to look at all
7 the islands, and that's -- this is including Lanai
8 and Molokai. Not Niihau, of course, but, I mean,
9 all of the islands that we did do a DBA on. So I'm
10 touching the entire State, not only just one island
11 or one county.

12 **COMMISSIONER LEE:** Okay. Previously, we
13 received a status report, listing spreadsheet. Have
14 you gone through all of them by this time?

15 **MR. WONG:** Which status report are you
16 talking about, Commissioner?

17 **COMMISSIONER LEE:** Yeah. Ariana -- you
18 can call me "Brian."

19 **MR. WONG:** Thank you, Brian.

20 **COMMISSIONER LEE:** Ariana gave us a list
21 of the status reports and the current -- because we
22 had mentioned that there were many projects and
23 petitioners who were behind by 5, 10, 20, 30 years,
24 and that it's up -- it's -- it should be part of our
25 role to be pursuing that and not just waiting and

1 complaining about it 5 years and 10 years later. We
2 should be actively -- if we want to be part of the
3 solution -- to actively contact these people and ask
4 them, "Hey, your status report is 10 years late.
5 What's the problem?" You know?

6 And we were even told that there is no
7 such list, and then, the next day, we got a list.
8 And so, you know, were you -- do you know which list
9 I'm talking about?

10 **MR. WONG:** Yes, now I do. Thank you,
11 Brian -- or Commissioner.

12 The -- I have started that, but it's --
13 I've -- using that as also to generate my own list
14 just because we're supposed to be a separate -- I'm
15 a separate entity within Land Use. So I use that as
16 a add-on to help me. So -- and, also, sometimes I
17 find stuff that we don't have an annual report for,
18 and I tell them, "Hey, tell them as the Land Use
19 Commissioner planners, we need an annual report from
20 these guys. Can you follow up?" and which they do.
21 And that's why we've been getting more of a list.

22 **COMMISSIONER LEE:** Okay. So when you
23 mentioned the 19,000 units, that's based on sort of
24 an estimate of the number of people you've contacted
25 and what they're responsible for. Is that correct?

1 MR. WONG: Yes.

2 COMMISSIONER LEE: Okay. You know, I
3 think, you know, we all -- we've heard in the
4 community for many years from past commissioners and
5 even from staff that LUC is not the problem because
6 there's been 40,000 units that have been approved,
7 and now we're hearing that some of them are like
8 they say in oil -- in oil discovery, there's --
9 there's possible, probable, and -- and I forget the
10 third one; but, you know, there's different stages.
11 Right?

12 Some are likely, some are less likely, and
13 some are not probable. So, you know, I think -- I
14 think we should be careful in throwing out
15 statistics such as that "there's -- there's tons of
16 projects, we need so much water, we need all this,"
17 when a lot of these are probably never going to
18 happen. So just -- just a comment.

19 And then I -- I think we should see some
20 kind of a plan either from yourself or the executive
21 officer that shows what you're pursuing. Like you
22 said, you know, we're going to try Maui first.

23 You know, I think the commissioners should
24 see what your plan of attack is. And you don't have
25 to be super-specific; but, you know, we'd like to

1 see some kind of a -- a strategy from your
2 department.

3 **MR. WONG:** So, Commissioner, the -- the --
4 I'm going to tell you the plan of attack is hitting
5 each island, but I go from 1960s to present.

6 So the -- the problem is, like, for
7 example, the 1960s, it's only one page of finding of
8 fact, conclusion of law, and decision and order.

9 To get what they promised or what they
10 stated, I have to go back to the old dockets and it
11 -- I have to wear a -- sorry to say -- a mask
12 because that's what -- what it really shows. And
13 those are, you know, brown paper -- onion paper,
14 pretty much. For the younger people, "onion paper"
15 is what they used to type on. It's not
16 computerized. So it's very time-consuming going
17 through boxes of paper.

18 In terms of -- that is the plan of attack
19 is 1960 to now. I'm only in the 1970, 1980s. But
20 sometimes, you know, let's say we -- I get that
21 stuff from Ariana, that list, and I says, "Hey, you
22 know, maybe I should look at this one." Somehow it
23 -- it clicks. I don't know what clicks from my
24 previous job, that I start looking into it and says,
25 "Hey, I'm going to jump into -- instead of 1960, I'm

1 going to a 1990 project." Then I'll go back to the
2 1960s. So that's what I do sometimes. It -- it's a
3 -- but the plan of attack is 1960 to now. That's
4 what the plan of the attack is.

5 **COMMISSIONER LEE:** Well, I guess I was
6 more thinking of, you know, are you going to look
7 for a status report, or are you just going to go
8 through each petitioner case one at a time,
9 basically?

10 **MR. WONG:** I'm going through each one at a
11 time just because I don't want to let anything fall
12 through the cracks, and so that's why it's taking
13 longer than expected.

14 **COMMISSIONER LEE:** You know, sometimes
15 maybe -- I'm not -- I'm not going to -- you know,
16 you -- you're the one that knows what your job is,
17 but sometimes it's good to get a general, quick
18 survey of -- of all the projects and then you can
19 maybe even identify certain ones that you can have
20 the greatest impact on. So just a suggestion, you
21 know, and then to hit those that can be more
22 productive first; you know?

23 I mean no sense going on something that's
24 so old that probably everyone's dead already.
25 Right? You know, when there are certain people that

1 -- like on the status reports, it was mentioned that
2 there were projects that the reason that they're not
3 updated is because we -- we can't find these people;
4 you know?

5 But I -- I looked at the list, and there
6 were several I saw that I already know myself -- and
7 I'm not that in touch with things -- that these
8 projects are no longer owned by those people
9 anymore.

10 So, you know, I -- I think that, you know,
11 you gotta do what you gotta do, but try and see what
12 is the most productive use of your time. And if you
13 can give us, you know, quarterly updates as we had
14 mentioned before, you know, because plans always
15 change. Right? You -- you start off with the plan
16 and then you adapt. So, you know, it would be good
17 for us to get updates on what your strategy and
18 results are, and if anything has changed. Thank you.

19 **MR. WONG:** Thank you, Commissioner. And I
20 just wanted to reconfirm what you just said, that
21 ownership has changed. So just to, let's say in
22 1980s project, for example, it was owned by you at
23 the first, and then may have changed to Commissioner
24 U'u, then to Commissioner Miyasato, then to
25 Commissioner -- so chasing that down is the most

1 time-consuming to find, you know, that line of
2 thought.

3 **COMMISSIONER LEE:** Yeah. Well, I'll give
4 you just one example. Like, I looked -- I saw many
5 projects by Alexander and Baldwin where they were
6 behind 5, 10, 15 years according to the spreadsheet.
7 And some of them, I already know that that's been
8 sold already; you know?

9 And so those guys, if -- if the big guys
10 that are easy to identify are behind, I mean, to me,
11 that's the more productive way of going after
12 things, like, "Oh, you know, A and B, Gentry,"
13 whoever, you know, "these guys, they're behind. I
14 should see what the problem is because they still
15 exist to this day, and, you know, something's going
16 on, and if they -- if I can help them, I might be
17 able to help 2,000 units move ahead"; you know?

18 Rather than going back to something from
19 1965 where you've not heard anything and then see if
20 I can dig up some, you know, archives and stuff. So
21 just a suggestion.

22 **MR. WONG:** Thank you, Chair --
23 Commissioner. And I also want to say that, for your
24 information, A and B doesn't have a land division
25 anymore. So I already contacted them, and I

1 understand where you're coming from, also. Thank
2 you.

3 **MR. ORODENKER:** Mr. Chair, if -- if I may,
4 this is Dan Orodenker again.

5 If I may comment on Arnold's presentation.

6 **CHAIR GIOVANNI:** Please do. But I see
7 other commissioners have questions coming as well.
8 So go ahead, Mr. Orodenker.

9 **MR. ORODENKER:** To be a little bit more
10 articulate about what Arnold is trying to say,
11 Arnold and I work together on almost a daily basis.

12 He comes forward with projects that we --
13 that he has dug up and we look at. If the project
14 has been sold, I request that he pursue the project
15 with the new owners to find out what their
16 intentions are. If the project simply has not given
17 us a status report, that's a different thing. I
18 mean, that goes to Martina and Scott to contact them
19 and update their status reports.

20 I agree with Commissioner Lee that a lot
21 of these projects are just dead. They're dead. And
22 I have urged Arnold and have directed him towards
23 projects which we believe could still come to
24 fruition and leave the other projects alone for now.

25 The 19,000 number that Arnold came up with

1 was based on the number of projects that he has
2 communicated with the owners on and their assertion
3 that they still intended to develop the projects.

4 In many cases, Arnold had -- has directed
5 them towards solutions that will result -- maybe not
6 tomorrow, but in the next 5 to 10 years, depending
7 on how quickly they move -- in project development.

8 The original -- and -- and Commissioner
9 Lee, I think that what you're referring to is way
10 back when when we had represented that there was
11 45,000 to 65,000 units out there that had not been
12 built, we had a list of projects that -- that we had
13 no information on with regard to whether or not they
14 had actually begun construction. And that was where
15 the 45,000, 65,000 number came from.

16 That list has been given to Arnold, and he
17 has been bulldozing his way through it to try and
18 determine on whether or not these projects are
19 viable. We are loathe to take projects that we know
20 are dead, are -- and definitely not going to happen
21 and revert them. We don't think that that is
22 productive. But as long as there is someone that we
23 can contact, we make efforts.

24 Arnold makes efforts to move projects
25 along. It's an iterative process. There have been

1 a couple of projects that I've worked on with Arnold
2 where we thought we had something that was going to
3 work and it hit a brick wall and Pulelehua is an
4 example of that.

5 It's -- it -- it moves on a daily basis,
6 and I am in close contact with Arnold with regard to
7 how these things work, which projects he should be
8 focused on, and what he should be attempting to
9 accomplish.

10 **COMMISSIONER LEE:** Commissioner Lee.
11 Thank you, Executive Officer. That -- that's what I
12 wanted to hear because I -- I didn't know that you
13 were communicating and giving him some direction.
14 So that's good information, but the --

15 **MR. ORODENKER:** Yeah. Arnold is usually
16 my first meeting in the morning; so --

17 **COMMISSIONER LEE:** Oh, how unfortunate for
18 you, Arnold.

19 **MR. ORODENKER:** Yeah.

20 **COMMISSIONER LEE:** Yeah. So the -- it's
21 like drilling for oil and -- yeah, so it's like you
22 have possible, probable, and proven. And sometimes
23 the possible and probable depends on the price of
24 oil. Right?

25 So OPSD and the County Planning

1 Departments, they do the same thing as far as
2 updating projects. And they -- so you can work with
3 those guys too. And they're constantly in contact
4 and updating their lists as well, so I would
5 encourage you to keep good contact with them.

6 **CHAIR GIOVANNI:** Thank you --

7 **MR. ORODENKER:** Thank you, Commissioner.
8 We will -- we will make that attempt. And we do.
9 Actually, that is one of the things that I'm
10 constantly telling Arnold is that he needs to talk
11 to other organizations. So I appreciate that.

12 **CHAIR GIOVANNI:** So, Mr. Orodenker and Mr.
13 Wong, am I to interpret that the -- based on the
14 work you've done to date, that the nominal forty-
15 five to sixty-five thousand reference that was being
16 tossed around six months to a year ago is now
17 19,000?

18 **MR. ORODENKER:** No. That -- that is not
19 correct, Mr. Chair. On -- as Arnold has said
20 several times, this is a big job, and a lot of it is
21 just on paper. We still believe that that number is
22 somewhere in that area, somewhere between forty-five
23 to sixty-five thousand. It's just taking us time to
24 get through it all.

25 We would also note that Arnold's -- couple

1 of the projects that Arnold has worked on, the
2 numbers on how many units they were going to build
3 actually increased because that's how they cover
4 things like increased infrastructure costs and the
5 like.

6 This is not going to be something that we
7 can attack all 65,000 or 45,000 units in a quarter.
8 We're -- this is going to be a slow process because
9 these projects are complicated, or their solutions
10 are complicated. But we don't -- one of the things
11 that I don't want Arnold to do is lose focus on
12 projects that could be shovel-ready in the next five
13 years. So we -- we're focusing on those. The rest
14 of them, we'll get to.

15 **CHAIR GIOVANNI:** So thanks for that
16 clarification. But if you evaluate a project and
17 you come to the conclusion as you, in your own
18 words, "it's dead," it's not going forward, how do
19 you adjust the total number for -- to account for
20 those units that were in dead projects?

21 **MR. ORODENKER:** Well, I mean, "dead" is a
22 relative -- sometimes it's -- it's actually a -- a
23 timing situation. Okay. And so what -- when I say
24 "they're dead," is, I mean, right now, there's no
25 way that these projects are going to move, so that's

1 why we don't come to the commission asking for them
2 to be reverted, and I direct Arnold away from those
3 projects, for now, until the situation changes.

4 **CHAIR GIOVANNI:** So they're more -- so
5 they're more in purgatory than dead.

6 **MR. ORODENKER:** Yeah. I think that would
7 be a more accurate statement.

8 **CHAIR GIOVANNI:** Okay. Thank you.
9 Commissioner Miyasato, I thought I saw
10 your hand up. Please proceed.

11 **COMMISSIONER MIYASATO:** Thank you, Chair.
12 Thank you Arnold for all your efforts.
13 And thank you for your report.

14 You know, given what's been said by the
15 director and yourself, given the Governor's
16 emergency proclamation on housing and through your
17 efforts, do -- would you be able to say that there's
18 anything that would be in -- on the ground in the
19 next five years from what you've researched so far?

20 **MR. WONG:** Chair -- Commissioner, yes. I
21 do agree there will be some stuff that will be
22 shovel-ready within five years; several projects.

23 **COMMISSIONER MIYASATO:** Okay. Thank you.

24 **CHAIR GIOVANNI:** Commissioners, is there
25 any other questions? Comments?

1 **COMMISSIONER LEE:** Chair, Commissioner
2 Lee. I would -- just one final comment. You know,
3 earlier, we heard that you were going to look at the
4 '60s projects first, but I think I agree with Mr.
5 Orodenker that we should look at the low-hanging
6 fruit first, you know, and try and get the fastest
7 bang for the buck as possible. But I know this is
8 an adaptive process, so I'm sure you guys will
9 develop some good strategies. Thank you.

10 **MR. WONG:** We will. Thank you.

11 **CHAIR GIOVANNI:** Thank you.

12 Commissioner Yamane, did you have your
13 hand up?

14 **COMMISSIONER YAMANE:** Yes, Mr. Chair.
15 Thank you.

16 Yeah. So just a comment on the
17 presentation.

18 I know what my expectation was on this
19 presentation when we were presented that Excel list,
20 I thought that was great. So I thought my -- I
21 thought the update was going to be based on that
22 list, and any movement, and status change on that
23 list because I agree, I think that list was based on
24 Mr. Orodenker's and Mr. Wong's collaborating, which
25 was a good list.

1 I think they know best which one has the
2 best chance for movement. So that was my
3 expectation on the update is re-showing the list and
4 showing if statuses has changed, any movement has
5 changed. So just -- just comment for future. Thank
6 you, Mr. Chair.

7 **CHAIR GIOVANNI:** Yeah. I would concur
8 with that. That would -- it would be nice if we
9 could have a -- a master list that when we got the
10 quarterly updates, you submitted an updated version
11 of that list to whatever form you might -- with
12 comments on a project-by-project basis. That would
13 be very informative. Appreciate that.

14 **MR. ORODENKER:** We will try and do that,
15 Mr. Chair. I would caution, however, though, that
16 sometimes -- I mean, you know, this is kind of like
17 knocking pins down; you know? You -- you throw the
18 ball, you knock the pin down, and then it's up to
19 your -- to the developers, the petitioners, to take
20 the next steps.

21 **CHAIR GIOVANNI:** Sure.

22 **MR. ORODENKER:** So sometimes we don't know
23 whether they're -- they're actually in gear or not.
24 We try and swing back to them every -- every, you
25 know, month or so to find out what they're doing,

1 but there may not be much change on a quarterly
2 basis, where on a yearly basis, I think you'll see
3 larger changes.

4 **CHAIR GIOVANNI:** Yeah. I mean -- and it
5 goes without saying. It's not even explicitly the
6 -- the job of the Land Use Commission to be doing
7 this work. It's this -- this work is being done
8 because it's considered to be helpful and will help
9 move the -- the whole ball forward, the proverbial
10 "ball" forward to get housing done.

11 So if we can find opportunities to
12 directly address obstacles in these projects by the
13 work of Mr. Wong, that -- that is wonderful. So
14 it's worth the effort to try to knock down those
15 obstacles. But so, yeah -- but it's a fluid
16 situation, you need to be careful what you publish,
17 and put the right caveats on it.

18 I want to -- I want to go back to the
19 first comment --

20 **MR. ORODENKER:** I'm sorry, Mr. Chair.

21 **CHAIR GIOVANNI:** Go ahead.

22 **MR. ORODENKER:** Commissioner Carr Smith is
23 trying to ask a --

24 **CHAIR GIOVANNI:** I see that. I see that.
25 That's where I'm going next.

1 Commissioner Carr Smith.

2 **COMMISSIONER CARR SMITH:** Thank you. I
3 think we spoke about it in the past, and I just
4 wanted to bring it up again as a potential practice
5 we could put into place -- and that is putting an
6 item on the agenda title -- and entitled something
7 like "Administrative Matters Updates," and then it
8 can always be there. And if there is something to
9 share, it can be shared, and if there's nothing,
10 then there's nothing. But I think it might prompt
11 us always being able to be updated about various
12 things since we've been asking more and more for
13 more transparency. So that would be my suggestion.

14 **MR. ORODENKER:** Thank you, Commissioner.
15 We will work with the AGs to come up with some
16 language so that we have something that we can work
17 with.

18 **CHAIR GIOVANNI:** Okay. I want to revert
19 back to Mr. Wong's -- one of his opening statements,
20 because it's a real pet peeve of mine personally,
21 and it has to do with infrastructure costs on these
22 projects, which have -- the indication on that one
23 project that he was referring to, and I don't know
24 which project it was, is that the -- the original
25 estimate had exploded to a much bigger number, I

1 think, tenfold.

2 This is a story that I've heard over and
3 over about why these affordable housing projects
4 don't pencil out because you gotta put -- the
5 developer has to do the infrastructure development
6 first and they have to do it largely on their own
7 account -- financial account.

8 I think it's -- I just want to make a
9 general comment. I think it's a real problem for
10 Hawaii to at this, on the one hand push so hard for
11 affordable housing, as we all know we need it, and
12 at the same time put the burden of the
13 infrastructure cost on the developer, which
14 translates to a per-unit cost which makes the
15 housing, in some cases, unaffordable to begin with,
16 and it therefore stalls the whole project.

17 So I think it's a much bigger problem than
18 the LUC can solve. But burdening developers with
19 infrastructure costs on any green site project, I
20 think, is a real impediment to solving the
21 affordable housing crisis in this State. I just
22 want to put that on the record.

23 **COMMISSIONER U'U:** Question, Chair?

24 **CHAIR GIOVANNI:** Where -- who's raising --

25 **COMMISSIONER U'U:** Commissioner U'u.

1 **CHAIR GIOVANNI:** Commissioner U'u, please.

2 **COMMISSIONER U'U:** I just like to add what
3 was said earlier by you, Chair. That is part of the
4 problem definitely, the infrastructure cost has
5 risen up. I think you're right where the burden has
6 been put on the developers. But if other facets
7 that we can help to bridge that gap of funds that's
8 needed is the process -- is to expedite the process
9 -- the process in -- in its entirety, you can
10 minimize the cost.

11 I think the next one that, I think, was
12 missing was sometimes the community is not ready for
13 the project, so at times leaving it there, when the
14 community feels it's time or it's needed now along
15 with appropriate funding or infrastructure gets
16 closer to make it affordable, I think it's key too.
17 So there's many facets that goes into that.

18 I think there's a lot of it, but you're
19 right, though, the -- the key is the gap -- bridge
20 gap of infrastructure. But, again, sometimes it's
21 the community. And, again we can shorten the
22 process and that will take away some of that -- the
23 entitlement process goes into that per-unit cost,
24 also, whether it be the State, County,
25 Interventions, EA, EIS -- all the acronyms you want

1 to put on there, it all adds to a higher number. So
2 yes, we're in a -- we're in a battle. So I just
3 wanted to add to it.

4 **CHAIR GIOVANNI:** Yeah. I hear you.

5 Commissioners, anything further before we
6 take a break?

7 Mr. Orodenker, did you have your hand up?

8 Mr. Orodenker?

9 No? Yes? I can't tell what you're doing.

10 **MR. ORODENKER:** I'm sorry, I'm muted.

11 No, Mr. Chair, I -- I wasn't going to say

12 anything more than to agree with Commissioner U'u

13 with regard to the community not being ready.

14 Sometimes that is the biggest problem, and that's

15 why we don't bring projects forward for this

16 commission to revert because they may be perfectly

17 good projects now, but they weren't then, and now

18 it's time to move them forward. And I agree with

19 Commissioner U'u on that.

20 **CHAIR GIOVANNI:** Okay.

21 **COMMISSIONER LEE:** Chair? Commissioner

22 Lee.

23 **CHAIR GIOVANNI:** Commissioner Lee, go

24 ahead.

25 **COMMISSIONER LEE:** Yeah. I can't -- I

1 can't let this end without also pointing out that
2 according to UHERO, and I think a Harvard study,
3 that government regulations also play a huge part in
4 the cost of housing. And so I think the list they
5 came up with before was that Hawaii has the highest
6 amount of regulation cost in the entire world. I
7 mean, not even close. So I just wanted to make sure
8 that that was not missed as an example. And we also
9 could be part of the problem.

10 **COMMISSIONER U'U:** I like to add to that,
11 Chair.

12 **COMMISSIONER LEE:** Well, I think Katia has
13 a clarification, Chair.

14 **CHAIR GIOVANNI:** Where are we? Somebody
15 spoke up. So --

16 **MS. BALASSIANO:** Yes. This is Katia from
17 OPSD. I don't know if there will be an opportunity
18 for a clarification when the commissioners finish
19 communicating about this matter.

20 **CHAIR GIOVANNI:** So, Katia, let me swear
21 you in, please, for --

22 **MS. BALASSIANO:** Yes.

23 **CHAIR GIOVANNI:** -- just for the record.
24 State your name and affiliation, and then
25 I'll swear you in.

1 **MS. BALASSIANO:** Thank you. Katia
2 Balassiano, Planning Program Administrator with
3 OPSD.

4 **CHAIR GIOVANNI:** And your testimony today
5 will be the truth?

6 **MS. BALASSIANO:** Yes, it is.

7 **CHAIR GIOVANNI:** Okay. Please proceed to
8 -- with what you wanted to --

9 **MS. BALASSIANO:** Thank you.

10 **CHAIR GIOVANNI:** -- put on the record.

11 **MS. BALASSIANO:** Just a quick
12 clarification. Mr. Wong spoke about funds that the
13 OPSD had for infrastructure purposes.

14 For those who may be listening out there,
15 OPSD did work with the Governor's Office of Housing,
16 and we secured a grant from the Federal Housing and
17 Urban Development Administration, HUD, and did
18 secure \$6.6 million under the theme of
19 infrastructure unlocks housing.

20 We are not in a position to give out
21 grants or loans through an RFP process for
22 infrastructure. However, we do plan on looking into
23 the creation of an infrastructure bank that would be
24 able to grant and loan funds for infrastructure
25 statewide.

1 So I just wanted to make that
2 clarification such that people wouldn't quickly be
3 calling us and asking for money. And I would be
4 happy to provide the LUC with some additional
5 information regarding that pro-housing grant that we
6 received and what it will be funding. That's it.
7 Thank you.

8 **CHAIR GIOVANNI:** Yeah. So probably the
9 best way to proceed is we're going to be asking Mr.
10 Wong and Mr. Orodener for a quarterly update on
11 this topic. So why don't you prepare to give us a
12 quarterly update on OPSD's activities that are
13 relevant to this topic? Just informally.

14 **MS. BALASSIANO:** Sure. I'd be happy to.

15 **CHAIR GIOVANNI:** Yeah. That'd be great.

16 Okay. I'm -- I apologize. I thought I --
17 I -- was mistakenly believing Mr. Wong that he only
18 needed three minutes, and he needed forty. So I
19 apologize to the commissioners for not taking a
20 break. But Ms. -- Commissioner Carr Smith.

21 **COMMISSIONER CARR SMITH:** I'm sorry, I
22 just -- something that the executive officer said, I
23 just need a little clarification on.

24 When we were talking about communities not
25 being ready for projects and then you subsequently

1 said that that's why you don't bring -- always bring
2 a project to us.

3 **CHAIR GIOVANNI:** For reversion. Yeah.

4 **COMMISSIONER CARR SMITH:** So how -- how
5 are you making that decision about whether you bring
6 something before us or not?

7 **MR. ORODENKER:** Well -- no, it -- it's not
8 bring projects before you. It's the existing
9 projects that haven't moved, we don't actively try
10 and revert them. We're not trying to move land back
11 into agriculture. We're trying to keep the
12 inventory of -- of urban lands available for
13 development as much as possible. I mean, so it's
14 not that we're not bringing projects to you, it's
15 just that we're not trying to -- trying to revert
16 projects because it is our belief that with a little
17 help and some -- and -- and a change in timing, most
18 projects will eventually come to fruition.

19 I mean, theoretically, a lot of these
20 projects haven't moved in 10 years. We have the
21 ability to revert them, but we're not actively
22 trying to do that. We would rather get -- give the
23 developers the time to work them out. So it's not
24 new projects, it's old projects that we're -- we're
25 trying to stimulate.

1 **CHAIR GIOVANNI:** Yeah. That was my
2 interpretation of what was meant.

3 Thanks for the clarification.

4 Okay. Commissioners, if nothing further,
5 I'm going to take a break.

6 Okay. It's now 9:20 something -- 28.
7 Let's come back at 9:40, 940. We're recessed until
8 9:40.

9 **(Recess taken from 9:28 a.m. - 9:40 a.m.)**

10 **CHAIR GIOVANNI:** Okay. Back on the
11 record.

12 Is everybody in attendance? Can you
13 confirm for me?

14 Commissioner U'u, are you -- Commissioner
15 U'u, are you available?

16 **COMMISSIONER U'U:** Yes, I am.

17 **CHAIR GIOVANNI:** All right.

18 **COMMISSIONER U'U:** Ready and willing.

19 **CHAIR GIOVANNI:** Okay.

20 Ms. Steed, are you available and back on
21 and present?

22 **MS. STEED:** I am present.

23 **CHAIR GIOVANNI:** Very good. So we're
24 still on the agenda item regarding the update from
25 the commission staff.

1 Before we go to the final round of
2 opportunity for public -- second round of public
3 testimony, Chair wants to make a -- an observation
4 and a comment. And this is -- and everybody knows
5 I'm not a lawyer, so I'm not offering any legal
6 interpretation, but just a -- so my comments should
7 be taken in the name of observation.

8 And it has to do with a commentary not
9 only among -- among those present, but among the --
10 the greater Hawaii community about whether or not
11 development is sufficiently hindered because of all
12 of the regulation and the costs that might be
13 associated with regulation to -- to do project work
14 in Hawaii.

15 And my concern is that in many regards,
16 the LUC is -- these are my words -- a -- a safety
17 net to assure that important matters -- and I'll --
18 I'll be explicit about what I think they are -- are
19 accounted for in our decision-making and our
20 deliberations.

21 You know, we are -- as we -- was shared
22 with us by -- in our training sessions a month ago,
23 there are numerous aspects that we have to take into
24 account in any petition that comes before us. But
25 four of them that jump out to me are -- and whether

1 you agree with them or not, they have to be
2 accounted for, and one is the environmental review
3 that goes with HRS 343 for projects which can be
4 onerous and require a full-blown environmental
5 impact statement -- is the public trust doctrine in
6 which we've been educated on that we have to account
7 for.

8 There are cultural assessments, sometimes
9 referred to globally as the Ka Pa'akai analysis,
10 that we have to take into account. And then we have
11 to assure, for many projects these days, that there
12 are available water resources to proceed.

13 So not giving these matters the attention
14 that are required -- and when I say "required,"
15 they're either in my view -- again, I'm not an
16 attorney -- but they seem to be mandated by either
17 the Hawaii Constitution or -- and/or statutes that
18 have been passed by the "leg" and signed by previous
19 governors or the current governor.

20 What that means to me is that we -- we
21 have to take those matters with diligence and
22 seriously. And if we don't, and we make decision-
23 making that is more expeditious, and we ignore the
24 -- the details of what's required there, my view is
25 we are running the risk of our decisions being

1 appealed almost certainly, and there being incumbent
2 delays that go way beyond what was originally
3 intended.

4 So I -- it's a tough call for us, but the
5 call that I think that -- that we have to make --
6 and this is just my opinion -- we gotta be cautious.
7 We gotta -- we gotta act prudently, and we gotta
8 take these matters of 343, the public trust
9 doctrine, Ka Pa'akai analysis, and availability of
10 water, in due consideration on every project that
11 comes before us. And if we don't, those -- these
12 projects can be backfired because they're going to
13 be headed to the Supreme Court. Just my view.

14 I invite other comments by commissioners
15 on this topic, if you want to make them now. If
16 not, we'll proceed to -- to order.

17 Anybody want to comment?

18 Okay. Second round of public testimony.

19 Mr. Wong, has anybody in attendance there
20 indicated they want to do additional testimony on
21 the matters that were discussed in the previous
22 hour?

23 **MR. WONG:** Not on my agenda item, Chair.

24 **CHAIR GIOVANNI:** Very well. So that will
25 close that agenda item for now, and we'll move to

1 the next order of business which is a Presentation
2 and Action on Memorandum of Understanding with the
3 State of Hawaii Commission on Water Resource
4 Management.

5 So an MOU is being -- has been drafted.
6 It -- that would -- it is intended to encourage the
7 exchange of information -- sharing of information
8 and clarification between agencies and delegate to
9 the chairperson. This is what's been drafted and
10 proposed to finalize an MOU to make a -- to make an
11 MOU that would come before this commission for its
12 consideration.

13 So, Mr. Orodenger, can you give us a
14 little more background before I even open this up
15 for public testimony on this agenda item? What's
16 going on?

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

19 Dan Orodenger. Yeah. If you recall, at
20 our presentation on 7/10/24 by the Commission on
21 Water Resource Management, they suggested that we
22 enter into a memorandum of understanding to
23 formalize the process by which we would communicate
24 with them on petitions that come before us.

25 It -- what happened after that, I mean,

1 after this commission sort of gave their -- their
2 tacit "okay" to preparation of that is that the
3 Commission on Water Resource Management drafted a
4 document that was basically based off of the Public
5 Utilities Commission document.

6 I received it. I made a couple of changes
7 because there were some typographical errors --
8 errors and things like that, but I did not make any
9 real substantive changes, sent it back to them, and
10 they told me that they wanted to bring it before
11 their own commission before they send it back to us
12 again.

13 A few weeks ago, they held a hearing on
14 this which I attended and -- to make a long story
15 short, their commission suggested some changes, and
16 they authorized the Chair of the Commission on Water
17 Resource Management to finalize an agreement with
18 the Land Use Commission.

19 And that's kind of where we are. The Land
20 Use Commission staff has not put any real
21 substantive thought into this document. It is
22 basically coming from Commission on Water Resource
23 Management. We wanted to discuss it with the
24 commission before we took it any further and see if
25 the commission wanted to authorize the Chair to --

1 to continue with negotiations.

2 **CHAIR GIOVANNI:** So I want to back up a
3 half a step at least. So my recall on -- at the end
4 of the presentation by CWRM to the LUC commission in
5 July was that, you know, we thanked them for their
6 presentation, et cetera, and we said we'd like to
7 find a way to be sure that when a petition comes
8 before the LUC for which there are perceived or real
9 water issues, that they were given an opportunity to
10 proactively review and provide information to LUC as
11 part of its deliberations and considerations.

12 I don't ever remember the word MOU being
13 mentioned in that. It was more like, "Can we come
14 up with a way that we could work together to make
15 sure that we get your input when we need it?"
16 Right?

17 **MR. ORODENKER:** Actually, I went back and
18 looked at the transcripts, and in several places Ms.
19 Roth suggested an MOU.

20 **CHAIR GIOVANNI:** Ms. Roth suggested an
21 MOU. Right. Correct. But we didn't request one,
22 so they suggested it --

23 **MR. ORODENKER:** Right. Yes --

24 **CHAIR GIOVANNI:** -- maybe being the best
25 way forward. And maybe it is. I don't know.

1 So since then, I've not received any --
2 anything direct from staff or from anybody -- anyone
3 with the CWRM or that commission. But I have -- I
4 was aware that it was an agenda item, and I have
5 seen a draft MOU.

6 My question is what's your best
7 understanding, as it stands right now, on the
8 process that may lead to an MOU or not -- on the
9 process itself, where do we stand on it? What --
10 what's being proposed? What's -- how does it work?

11 **MR. ORODENKER:** Well, as soon as we got
12 the latest draft of the MOU from the Commission on
13 Water Resource Management staff, we -- we put it up
14 on the website --

15 **CHAIR GIOVANNI:** Right.

16 **MR. ORODENKER:** -- for the commissioners
17 to review. It's more -- it sets out the -- the --
18 the need for the Commission on Water Resource
19 Management and the LUC to exchange information on a
20 more regular basis.

21 It sets forth the topics that the MO that
22 the Commission on Water Resource Management would be
23 commenting on, and it sets off -- sets forth the
24 ways in which they may communicate with us, either
25 by direct -- direct communication or by oral

1 communication or in writing and, also, as part of
2 the regular request for comments through the Office
3 of Planning and Sustainable Development.

4 The -- the -- if you recall from the July
5 meeting, one of the issues that Commission on Water
6 Resource Management brought up is really what I
7 would call an internal issue, and that is OPSD sends
8 the information over to the Department of Land and
9 Natural Resources, the Department of Land and
10 Natural Resources then sends it -- sends it to their
11 Land Use Division, the Land Use Division, under its
12 own letterhead, sends the information on to
13 Commission on Water Resource Management staff, and
14 as a result, it may not even get any attention by
15 Commission on Water Resource Management.

16 And that -- that is the impetus for this
17 MOU. I -- I believe that the information that the
18 Commission on Water Resource Management can provide
19 us would be of assistance. I -- I -- I don't have
20 any much more of an opinion on it than that.

21 **CHAIR GIOVANNI:** And, well -- and you
22 raised another point of -- of interest to me -- not
23 concern, but interest -- is that the intent is not
24 to bypass OPSD on this matter. It was really
25 looking for a way that OPSD, CWRM, and LUC could get

1 on the same page on the issues of interest in any
2 particular docket that involve water. I mean,
3 that's --

4 **MR. ORODENKER:** That is correct -- that --
5 that is correct. I mean, we're not -- I mean, this
6 wasn't -- you're exactly right. This was not an
7 attempt to bypass OPSD.

8 As I mentioned when I first started into
9 this, I believe that this is an internal problem at
10 DLNR that we're -- that they're trying to fix, so to
11 speak, so that it's -- there's more communication
12 with us. They -- they have more knowledge with
13 regard to when we need the information, and they can
14 get it to -- to us more quickly. It's -- it's, for
15 lack of a better word, it's a way to cut through
16 some of the -- the bureaucratic slowdowns.

17 **CHAIR GIOVANNI:** So what, actually,
18 happened at the Board -- at the Commission meeting
19 -- CWRM meeting? Because my understanding it was
20 agendized for adoption and it didn't happen.

21 **MR. ORODENKER:** No. What happened was is
22 that some of the commissioners at the Commission on
23 Water Resource Management had suggested -- were
24 concerned about some of the language and that there
25 may need -- still need to be some work on it.

1 I made it clear that the Land Use
2 Commission had not -- this commission, you
3 commissioners, had not had a chance to weigh in on
4 it yet and that we were waiting for them to send us
5 something over, and as a result, the final -- I
6 guess the final motion was to allow the Chair the
7 ability -- the Chair of the Commission on Water
8 Resource Management, the ability to work with the
9 Chair of the Land Use Commission to come up with a
10 viable document and -- or a document that they both
11 agreed to and then bring it back to both commissions
12 for adoption or approval or disapproval.

13 **CHAIR GIOVANNI:** Or amendment.

14 **MR. ORODENKER:** Yeah. Or amendment or
15 further amendment. Yeah.

16 **CHAIR GIOVANNI:** Okay.

17 Commissioners? Commissioner Carr Smith, I
18 saw your hand up. Is it still up?

19 **COMMISSIONER CARR SMITH:** It's not, but if
20 -- are we taking questions right now?

21 **CHAIR GIOVANNI:** So I am taking -- if you
22 want to comment on the -- what -- what I've asked
23 for -- we're going to go to testimony and then we'll
24 have questions --

25 **COMMISSIONER CARR SMITH:** Right. Okay.

1 Let me just make a quick comment, if I can, please.

2 **CHAIR GIOVANNI:** Yeah. That -- that's
3 what I would invite at this time --

4 **COMMISSIONER CARR SMITH:** Okay. Okay.

5 **CHAIR GIOVANNI:** -- a quick comment for
6 clarification on what you remember and what you
7 think is going on.

8 **COMMISSIONER CARR SMITH:** Sure.

9 I would just say that I've watched the
10 CWRM meeting more times than I care to admit, and I
11 recall that Chair Chang asked the executive officer
12 to allow OPSD to weigh in on the MOU. So I would --
13 I would want to follow up and hear about how that
14 went. But that's all I have for now.

15 **CHAIR GIOVANNI:** So when you say, "the
16 CWRM meeting," you don't mean the presentation --
17 the meeting -- our meeting in which they presented
18 to us. You're talking about --

19 **COMMISSIONER CARR SMITH:** No, no, no, no.
20 The CWRM meeting --

21 **CHAIR GIOVANNI:** Their commission meeting.

22 **COMMISSIONER CARR SMITH:** -- where the --
23 their meeting. Yeah. You can see it online just
24 like people are watching our meeting right now.

25 And, yeah, so I just watched the section

1 on that agenda item just to get a little bit more
2 clarity, and -- and Chair Chang asked if OPSD had
3 weighed in on this, and asked Mr. Orodenger to make
4 sure that they do. So that was just something that
5 I was thinking of and wanted to mention while I
6 thought of it.

7 **CHAIR GIOVANNI:** Okay. Great. Thank you.

8 **MR. ORODENKER:** Thank you, Commissioner.
9 Dan Orodenger, again.

10 This is kind of a step-by-step process as
11 is any contractual arrangement, and we fully intend
12 to discuss this matter with OPSD, but we don't -- I
13 mean, I didn't want to go there until I -- I knew
14 what this commission wanted to do; so --

15 **CHAIR GIOVANNI:** Okay.

16 **MR. ORODENKER:** But we will be doing that.

17 **CHAIR GIOVANNI:** So I want to clarify:
18 This is not -- the -- the MOU -- the draft MOU that
19 you've posted and shared with this commission is not
20 a matter for approval or adoption in today's
21 meeting.

22 **MR. ORODENKER:** No, it is not. I mean,
23 the -- the furthest, I think, we could go with this
24 today would be to authorize the Chair, yourself, to
25 continue discussions with the Chair of the

1 Commission on Water Resource Management with regard
2 to the document.

3 **CHAIR GIOVANNI:** Okay. So has the Chair
4 of the Commission on Water Resources requested that
5 of us?

6 **MR. ORODENKER:** Well, that -- that was
7 what she was authorized to do. It's my
8 understanding that that's what she was authorized to
9 do at the Commission on Water Resource Management
10 meeting.

11 **CHAIR GIOVANNI:** I'm -- but I'm not
12 authorized to talk with her yet.

13 **MR. ORODENKER:** No. This commission would
14 have to authorize you to do that.

15 **CHAIR GIOVANNI:** Okay. Very good.

16 So let's proceed -- and now that that
17 that's all perfectly clear, let's proceed with the
18 matter first by recognizing public testimony.

19 So, Mr. Derrickson, has there been any
20 written testimony submitted on this matter?

21 **MR. DERRICKSON:** Yes, Mr. Chair.
22 Yesterday, we received a written testimony by Ana
23 Tuiasosopo, the Operating Engineers Local Union
24 Number 3. That's been put up on our website and
25 distributed to the commissioners.

1 This morning, we received written
2 testimony from David Arakawa from Land Use Research
3 Foundation -- this morning, and he is here today to
4 present in-person public testimony, I believe.

5 **CHAIR GIOVANNI:** Okay. Thank you.

6 So other than Mr. Arakawa, is there
7 anybody else that would like to -- is he the only
8 one present for public testimony today?

9 **MR. DERRICKSON:** He appears to be the only
10 one here to present public testimony, and it does
11 not appear that anyone online is attempting to
12 provide public testimony.

13 **CHAIR GIOVANNI:** Okay. Can we give -- is
14 Mr. Arakawa available to go on Zoom?

15 **MR. DERRICKSON:** Yes, he is. He'll move
16 up to the public testimony mic right now.

17 **CHAIR GIOVANNI:** Is that him moving? I
18 see that.

19 **MR. DERRICKSON:** Correct.

20 **CHAIR GIOVANNI:** Okay. So, Mr. Arakawa,
21 I'd like you to introduce yourself, I'd like you to
22 give me your -- your affiliation, I'll swear you in,
23 and I'd also like you to clarify if your public
24 testimony today will be consistent with the written
25 testimony which you provided this morning, which I'm

1 going to assume that others, besides me, have not
2 had an opportunity to see.

3 **MR. ARAKAWA:** Okay. Thank you.

4 My name is David Arakawa. I'm testifying
5 on behalf of the Land Use Research Foundation of
6 Hawaii. Thank you, Mr. Chair.

7 You know, my testimony is somewhat
8 consistent with the written testimony I submitted.
9 But, you know, I relied on the agenda, the agenda --
10 the language of the agenda.

11 You know, in my prior life, I was
12 corporation counsel, so the wording in the agenda is
13 very important. If it's for approval, people are
14 going to testify thinking it's up for approval.

15 I'm also a member of the Hawaii Tourism
16 Authority, so agendas are very important. At this
17 point --

18 **CHAIR GIOVANNI:** Let me swear you in, Mr.
19 Arakawa.

20 **MR. ARAKAWA:** Okay. Thank you.

21 **CHAIR GIOVANNI:** So do you swear the
22 testimony you are about to present will be the
23 truth?

24 **MR. ARAKAWA:** Yes.

25 **CHAIR GIOVANNI:** Okay. Please proceed.

1 You have three minutes.

2 **MR. ARAKAWA:** Okay. Thank you.

3 Anyway, I'm thinking that this whole
4 process is "poho," meaning nothing's going to happen
5 today. It's, you know, there's not going to be a
6 vote, but notwithstanding that, there may be a vote.
7 So I will testify.

8 Our -- my testimony is in opposition to
9 the proposed MOU for various reasons. And the main
10 reason -- one of the main reasons is there's no
11 staff report verifying the reasons or justification
12 for the MOU. And we are happy to hear Officer
13 Orodener say that it looks like it's due to an
14 internal problem at DLNR or CWRM, one department or
15 division is not talking to another division or
16 department.

17 So there's nothing on the record, no facts
18 on the record to justify the MOU or the failures to
19 communicate within DLNR. There's no evidence of any
20 CWRM failure to provide information or input to the
21 LUC, and it is a very important -- water is a very
22 important matter for your consideration, as you
23 noted.

24 Land Use Research Foundation is composed
25 of members, "kama'aina" and new members who are

1 stewards of the water in Hawaii, and have been so
2 for over hundreds of years -- 100 years, and we
3 support the objectives of the commission to preserve
4 and protect the State's precious water resources.

5 We believe it's unnecessary -- the MOU is
6 unnecessary because departments should be
7 communicating with each other anyway, and the
8 current EIS process -- you mentioned, Chapter 343 --
9 and the Land Use Commission District Boundary Review
10 Process, HRS 205, provides ample opportunities for
11 -- for that input.

12 We believe that this MOU is a attempt,
13 another attempt at a power grab by Commission on
14 Water Resource Management like the Governor's veto
15 of House Bill 1088 in 2023 where it tried to get
16 more authority over water emergencies and water
17 shortages, and that was vetoed by the Governor, and
18 this commission also rejected in 2023 a couple of
19 proposed rule changes which would have required
20 CWRM's authorization or approval before the
21 commission could take action on a -- on a matter.

22 And that is simply -- certain things are
23 within -- Mr. Chair, certain things are within
24 CWRM's "kuleana," and it's great when they comment
25 on it, but certain things are not within their

1 "kuleana"; it's the LUC's "kuleana." Right?

2 And so we believe that -- that under the
3 current process, that the LUC can get the best
4 information possible from the CWRM. There's no need
5 for a MOU to spell out specific things.

6 We have specific comments on the terms of
7 the MOU, but perhaps that could wait until if -- if
8 this thing moves forward. But I think the -- either
9 the DLNR Director, CWRM Chair, or -- or one of the
10 commissioners noted that the more detailed those
11 "topics" are, those are invitations for lawsuits.

12 And so if you already have laws that
13 encourage and sometimes require input from CWRM,
14 best to use the existing laws to get that expertise
15 before the commission, this commission, rather than
16 create a whole new document that creates new
17 obligations that could end up in court someday and
18 could further -- you mentioned this, Mr. Chair -- it
19 could further delay needed projects, and it could
20 cause litigation.

21 So that's our two cents. We have a lot of
22 other comments on the specifics of this, but we
23 believe that the MOU would expand impermissibly, and
24 perhaps unconstitutionally, expand the powers and
25 duties of CWRM in relation to the -- the LUC.

1 And we are troubled that OPSD and what --
2 what we heard earlier, OPSD and the Board of Water
3 Supply, and the LUC stakeholders, the petitioners,
4 have not been consulted with respect to this
5 proposed MOU.

6 So there are a number of other items.
7 I'll be open for questions, but -- if this -- this
8 matter proceeds further. So thank you very much,
9 Mr. Chair, for your indulgence and the
10 commissioners'.

11 I'm open for questions.

12 **CHAIR GIOVANNI:** Thank you, Mr. Arakawa.

13 **MR. ARAKAWA:** I'm sorry. Background.

14 I've been appearing before the LUC before -- since
15 1983. So that's 40 years on Land Use matters.
16 Thank you very much.

17 **CHAIR GIOVANNI:** So thank you. And -- and
18 you're correct. We're not going to take up the
19 matter of adoption of the MOU in any form today, so
20 you can defer any considerations in that regard to
21 the future. But your comments about the --
22 necessary to have a MOU in the first place is well
23 taken.

24 So, Commissioners, any questions for this
25 witness?

1 **COMMISSIONER LEE:** Chair, Commissioner

2 Lee.

3 **CHAIR GIOVANNI:** Yes, Commissioner Lee.

4 Please.

5 **COMMISSIONER LEE:** Mr. Arakawa, was it
6 your understanding that there would be action and
7 that's why you came to testify? Because when I look
8 at it, it looks really clear. It's not a typo or
9 anything. So I see -- it sounds like a lot of
10 backpedaling and -- and it doesn't seem very
11 credible to me that there was just -- was some
12 misunderstanding. You know, it -- it says -- it's
13 right there. And then it goes into detail about
14 authorizing our chairperson to enter into an MOU.
15 So there's no presentation, no discussion.

16 Was that your understanding that there
17 would be a vote today on this that went to CWRM's
18 approval first before it ever got to us?

19 **MR. ARAKAWA:** Yes. That was -- was my
20 understanding from what -- from reviewing the
21 materials from the CWRM -- CWRM meeting and the
22 agenda, you know, how the agenda was proposed or was
23 filed. But you know what? There still might be an
24 action taken by this commission.

25 At HTA, we -- things like this come before

1 us and we have a motion. Sometimes we have a motion
2 not to pursue it further. So there could be, based
3 on the testimony or based on what's presented, a
4 decision by this board, this commission to say
5 "Let's -- this year, let's try to use the existing
6 laws, existing rules, the existing process to get
7 the best information possible from CWRM and work
8 with them on resolving CWRM and DLNR's internal
9 issues rather than do a MOU." Right?

10 So that could be the vote today, and so
11 that's why I'm kind of glad I came. You know, that
12 might be a vote.

13 **COMMISSIONER LEE:** Okay. Yeah. You
14 brought up a point I hadn't thought of, which is
15 that although it was mentioned that this -- there
16 would not be a MOU vote, but the fact that it is on
17 the agenda means that anything is fair play,
18 including a vote if there was enough people, or even
19 any discussion on -- on not doing an MOU or working
20 on alternatives. Is that your understanding?

21 **MR. ARAKAWA:** Yes. The agenda item reads
22 "Presentation and Action on Memorandum of
23 Understanding," et cetera. And we have worked with
24 the AGs at HTA. That phrase "and action" could mean
25 approve or deny -- right? -- or -- or table or put

1 off. Right? So there could be a decision by this
2 commission to say, "You know what? Let's -- let's
3 not do this right now. Let's not pursue it. Let's
4 let DLNR work out its internal problems and see what
5 happens over the next year."

6 **COMMISSIONER LEE:** Do you recall at the
7 CWRM meeting whether there had been any
8 presentations of the MOU to their board, or was it
9 that the first time their board had seen it?
10 Because that's how it sounds like, that it was just
11 brought up and then up for a vote at their meeting
12 -- this couple of weeks ago. Is that correct?

13 **MR. ARAKAWA:** You know, I was not present
14 at that CWRM meeting, so I hesitate to -- to give
15 that, but it -- it kind of looked like the -- the
16 board members were not familiar with the basis and
17 the specific terms. There were questions. In fact,
18 one of the -- the CWRM commissioners asked for
19 deletion of in-stream -- in-stream uses. And that
20 -- I understand that portion was deleted from the
21 draft that the LUC provided.

22 But yeah, I -- there was a number of -- a
23 number of comments that could be interpreted like
24 they were not familiar with the document or the
25 issues.

1 **COMMISSIONER LEE:** Thank you. Thank you,
2 Chair.

3 **CHAIR GIOVANNI:** Commissioners, anything
4 further for this witness?

5 Thank you, Mr. Arakawa.

6 So the Chair has been made aware that
7 there may be representatives from CWRM in attendance
8 at the meeting. Let me just informally ask if that
9 is correct, and if they are, are they willing to
10 provide the commission some additional information
11 testimony as to the genesis of this memorandum, and
12 why it was put forth to the CWRM commission.

13 So, Mr. Derrickson, can you confirm if
14 they're there, and if they're willing to entertain
15 --

16 **MR. DERRICKSON:** We're going to -- we're
17 going to check the participant list.

18 **MR. ORODENKER:** Scott, I -- I believe Ms.
19 Roth is already connected to the Zoom meeting.

20 **CHAIR GIOVANNI:** I do see Ms. Roth.

21 **MS. ROTH:** Aloha, can you hear me?

22 **CHAIR GIOVANNI:** Ms. Roth. Thank you.
23 Are you willing to provide additional background and
24 perspective for this commission?

25 **MS. ROTH:** Yes, absolutely. I --

1 **CHAIR GIOVANNI:** Let me --

2 **MS. ROTH:** -- my screen is on. I don't
3 know if you can see me, but I think you can hear me.

4 **CHAIR GIOVANNI:** I cannot see you, but I
5 can hear you.

6 You say you cannot get your video on?

7 **MS. ROTH:** It's on. I don't -- I'm not
8 sure how you can view me, but it is on. I don't see
9 an option for on or off on this platform.

10 Oh, here, I think they're going to send me
11 a link.

12 **CHAIR GIOVANNI:** There you are.

13 **MS. ROTH:** Good morning.

14 **CHAIR GIOVANNI:** So let me ask you to
15 identify yourself and your affiliation for the
16 record, then I'll swear you in again.

17 **MS. ROTH:** Sure, Katie Roth. I am the
18 planning program manager with the Commission on
19 Water Resource Management.

20 **CHAIR GIOVANNI:** And do you swear the
21 testimony today will be the truth?

22 **MS. ROTH:** I do.

23 **CHAIR GIOVANNI:** Well, thank you, and
24 thanks for coming forward again. So please proceed.

25 **MS. ROTH:** Thank you. Yeah, I wasn't

1 planning to provide testimony, but here to answer
2 questions that you may have. I've been listening to
3 the conversation, and I did want to make some
4 clarifying points.

5 Regarding the last statement about whether
6 or not our commissioners had reviewed the MOU prior
7 to that August 20th Water Commission meeting, they
8 had not. That's pretty normal and standard for how
9 we operate meetings. We don't, you know, provide
10 briefings in most cases prior to agendized items
11 coming before our Water Commission.

12 We've done MOUs with other agencies, as
13 you mentioned, the PUC, so this was not thought to
14 be something that would be out of the norm. We
15 definitely did receive more comments and some
16 concerns more so than what we anticipated, and we
17 did our best to try to alleviate those questions and
18 concerns which, again, is why the commission
19 ultimately voted to move forward with the MOU
20 pending discussion from this commission.

21 Some of the other things that I want to
22 mention, you know, there's been a lot of discussion
23 about the purpose and intent of this MOU. We've
24 talked about how there's internal processes within
25 -- excuse me, within the Department of Land and

1 Natural Resources that could be improved upon, which
2 definitely is a component of this MOU. But I would
3 say that it's not the only component.

4 There's other ways that we could better
5 collaborate and communicate and be a bit more
6 proactive in information-sharing outside of official
7 doc reviews for items that come before your
8 commission. That included -- and it's detailed in
9 the MOU where we, you know, designate new areas as
10 ground or surface water management, issues related
11 to drought, you know, climate change where we're
12 seeing fluctuations, and water availability,
13 particularly declines in water resources which may
14 be of importance to this commission as you vote on
15 whether or not to approve new developments.

16 Sustainable yield updates. That's
17 something that we're in the process of considering
18 whether or not to update -- well, we're going to be
19 updating our sustainable yields for aquifer for
20 statewide, but we're having an internal conversation
21 right now on how we will go about doing that. We
22 have new data from the USGS, new recharge numbers
23 and data based on climate change predictions and
24 models.

25 So things like that that, you know, are

1 not officially part of a formal review process as
2 doc reviews go, but are things that we feel are
3 important for us to communicate on to be more
4 proactive in our engagement given the nexus between
5 Land Use Planning and Water Resource Management.

6 Maybe I'll also just mentioned that, you
7 know, this MOU is not intended to be legally binding
8 in any way. It states that clearly in the text as
9 well as, you know, it's not meant to be inconsistent
10 with any existing applicable laws, policies,
11 administrative rules.

12 I know the gentleman from LURF had some
13 specific concerns about the legality and
14 repercussions of this MOU. I would maybe just ask
15 that you, you know, consult with your deputy
16 attorneys on the correctness of those statements
17 which, again, I just would probably prefer to have a
18 conversation about whether or not those are actually
19 true.

20 Thank you. That's all. I'm happy to
21 answer any more questions.

22 **CHAIR GIOVANNI:** Thank you very much, Ms.
23 Roth.

24 So questions? Commissioner -- is that
25 you, Myles? Please proceed, Commissioner Miyasato.

1 **COMMISSIONER MIYASATO:** Thank you, Chair.

2 Before my question, just a technical. Do
3 you need to ask Ms. Roth if there's anyone in the
4 room -- adult?

5 **CHAIR GIOVANNI:** I think that's only for
6 commissioners.

7 **COMMISSIONER MIYASATO:** Okay. Thank you.

8 So, Ms. Roth, thank you for being present.
9 I guess, you know, I felt that our Chair had
10 extended a gracious invitation, after your
11 presentation, for your participation at the LUC.

12 Why -- what's the difference between the
13 MOU and the gracious invitation? Can't you just
14 attend anyway? I mean, you're open to attend and
15 comment.

16 **MS. ROTH:** Are you referring to attendance
17 at future LUC meetings?

18 **COMMISSIONER MIYASATO:** Yes. At your --
19 at the end of your presentation, our Chair had
20 extended an invitation for you to be recognized at
21 our meetings already. Why the MOU? What's the
22 difference here?

23 **MS. ROTH:** Well, as it -- when it comes to
24 document reviews and our attendance at meetings
25 where action items may come before your commission,

1 I think it would behoove both of us to have
2 conversations ahead of those meetings and have, you
3 know, a conversation about comments we may have
4 prior to sitting in in a meeting and offer official
5 testimony. It's kind of a little, potentially too
6 late at that point, and I think we want to make sure
7 that we both have an understanding about the
8 implications of approvals on both ends prior to
9 actually sitting in on an agendized meeting.

10 **COMMISSIONER MIYASATO:** So you would want
11 a meeting with the commissioners privately?

12 **MS. ROTH:** Not privately, no. This would
13 be, again, as part of -- in the example of a
14 document review that come before us that are
15 officially routed through OPSD, through our
16 Department of Land and Natural Resources. You know,
17 we're just basically asking that in addition to that
18 formal process of document routing, we could be
19 notified via email or a phone call to say, "Hey,
20 please look out for this document. We think it's
21 important for these reasons. We really want to get
22 your feedback and comment on it."

23 That's not currently happening, and in
24 some cases we may not be -- even be receiving the
25 documents to review. So we just want to make sure

1 that we are in communication, and, yes, direct
2 communication, but that doesn't necessarily mean a
3 -- a meeting internally behind closed doors.

4 **COMMISSIONER MIYASATO:** Okay. I'm a
5 little confused. That kind of went in a circle, so
6 -- okay. I'll yield now, Mr. Chair.

7 **CHAIR GIOVANNI:** Thank you, Commissioner.
8 Commissioner Carr Smith.

9 **COMMISSIONER CARR SMITH:** So thank you,
10 Ms. Roth.

11 So why can't you just do that anyway? Why
12 do you need an MOU to make you feel comfortable with
13 talking to the LUC staff about a docket?

14 **MS. ROTH:** Yeah, that's a great question.
15 That's something that our commissioners also raised.
16 We feel that the -- the purpose of an MOU is really
17 to institutionalize that level of collaboration and
18 communication, you know, provides more specific
19 details about ways that we could collaborate and
20 communicate better.

21 As staff moves on from positions, you
22 know, we just want to have something on the record
23 so future staff would know that this agreement is in
24 place. And that's something that, again, we have
25 done with other agencies.

1 **COMMISSIONER CARR SMITH:** Thank you.

2 **COMMISSIONER YAMANE:** Mr. Chair?

3 **CHAIR GIOVANNI:** Commissioner Yamane.

4 **COMMISSIONER YAMANE:** Hi. Thank you, Ms.
5 Roth.

6 A question. So it sounds like this MOU --
7 you're talking about adding better communications is
8 within staff, like staff to staff. How does the
9 commissioners know about those communications except
10 to ask you -- to call you in front of a meeting and
11 agendize that? Within the framework of this MOU,
12 how does that handle that?

13 **MS. ROTH:** Sure. Well, any comments we
14 provide which, again, would be in writing, would be
15 provided as part of, I think, the -- the submittal
16 or agendized action item that staff presents. I --
17 maybe I would defer to Dan to comment a little bit
18 more about how this would work internally in terms
19 of communicating our comments to commissioners
20 themselves.

21 **COMMISSIONER YAMANE:** Where is Dan?

22 **CHAIR GIOVANNI:** Dan Orodenker. We lost
23 him.

24 So, Ms. Roth, just let me follow up on
25 that question that Commissioner Yamane put forth and

1 go backwards a little bit into the prior questions.

2 So what we're really trying to do is to
3 make sure that we have the benefit of your input on
4 petitions that come before the Land Use Commission
5 for which there are relevant water issues. The
6 worst case scenario is we don't hear from you at
7 all, and that's what has occurred in the recent past
8 on some cases.

9 So we're trying -- so my invitation to --
10 to -- to you and to OPSD was, especially in this
11 time where water issues are more critical than ever,
12 in my memory, on a petition-by-petition basis. This
13 commission wants to hear from you.

14 So, for example, and this is purely
15 hypothetical, if we have a petition before us for a
16 -- a new development and we hear testimony from a
17 consultant of the petitioner that they're, "Oh,
18 there's -- the sustainable yield is more than --
19 more than enough and there is no water issues here."
20 If that's the only information we have, it -- I --
21 I don't feel comfortable making a decision without
22 OPSD and CWRM weighing in to either confirm that or
23 to disagree with that, or to clarify up on top of
24 that.

25 And if we're not hearing from you because

1 there are communication problems, then the purpose
2 of my invitation was let's solve those communication
3 problems so that we hear from you when we need to
4 hear from you.

5 Does that make sense to you?

6 **MS. ROTH:** Absolutely, yes. And that
7 definitely is a component of what this MOU is
8 intending to do.

9 **CHAIR GIOVANNI:** Okay. Thank you.
10 Commissioner Carr Smith.

11 **COMMISSIONER CARR SMITH:** So isn't the
12 process already in place for OPSD to notify DLNR
13 through the Lands Division to you? You get that.
14 Right? And so it -- isn't it your "kuleana" to
15 respond and, if appropriate, bring matters to our
16 attention, or be at our meeting to testify, or --

17 **MS. ROTH:** Yes, absolutely. I think the
18 issue has been that we're not always getting those
19 memos from our Land Division.

20 **COMMISSIONER CARR SMITH:** So isn't that
21 something you need to work out with the Land
22 Division?

23 **MS. ROTH:** Yeah, it definitely is. It
24 definitely is something that we're working on
25 internally as well. And, again, this MOU is just

1 intended to try to add an additional layer of
2 assurance that we are understanding and aware of
3 issues before the LUC.

4 **CHAIR GIOVANNI:** So the Chair would like
5 to turn attention to OPSD that is present. This is
6 a three-party discussion.

7 So, Ms. Kato and Ms. Katia, do you have
8 comments on this matter as far as two things: One,
9 the existing process and -- and deficiencies within
10 it, if any, or if somebody -- or are we just
11 dropping the ball? And, secondly, any comment on
12 whether you think an MOU such as this would help
13 address those issues that -- that do exist?

14 **MS. KATO:** Alison Kato. Katia Balassiano
15 would like to say a word on this. Thank you.

16 **CHAIR GIOVANNI:** You're still under oath
17 --

18 **MS. BALASSIANO:** Katia Balassiano,
19 Planning Program Manager at OPSD.

20 In regards to the processes, I believe
21 Commissioner Carr Smith characterized our current
22 processes correctly.

23 We receive materials that are going to be
24 put on an agenda from the LUC staff. We forward
25 materials to the agencies that are called out in the

1 petition or who may have an interest in the matter.
2 We draw attention to the relevant topics or, let's
3 say, conditions within the docket to the various
4 agencies.

5 We might ask a specific question or two
6 depending on the matter or our understanding of the
7 matter so that we have a little back-and-forth
8 conversation with the agencies, and then we ask for
9 their comments in writing. We provide a timeline
10 for the responses. If we don't get a response
11 within that time frame, we usually try a second
12 time, and sometimes a third time to get a response,
13 and then we report to the LUC what we have heard and
14 whether we've heard anything.

15 And our understanding is that, you know,
16 for certain agencies, it travels through sometimes
17 the circuitous route to get to the various entities
18 that we wish to hear from; but we, you know, respect
19 the internal processes that agencies use to generate
20 comments.

21 We believe that those internal routing
22 processes are intended to keep managers aware of
23 policy decisions and staff workloads. We -- we
24 understand that it's for record-keeping and
25 consistency of requests and responses. It -- it

1 helps managers assess staff performance and
2 knowledge, and it confirms that responses are
3 correct and complete when -- when, you know, it --
4 it passes through this process, and perhaps
5 different people have to review something before it
6 gets formally to the OPSD.

7 And -- and then as we collect information
8 from the various agencies, because we're the ones
9 who represent the State's position, sometimes we
10 need to work with the agencies to reconcile
11 different perspectives. But we -- we do that. And
12 everything that we find, we send along to the LUC as
13 part of our testimony. So that -- that is the
14 process that's used.

15 And whether this MOU would help, we've --
16 we've not been party to the conversations pertaining
17 to this MOU. So I -- you know, perhaps those
18 conversations can go on. But we're -- we're under
19 the impression that, you know, there are no -- as --
20 as Ms. Roth says, there are no new statutory
21 obligations associated with this MOU.

22 I guess we'd be concerned that if, you
23 know, CWRM shares preliminary information with LUC
24 staff and then it's later revised when it comes up
25 through standard DLNR channels to OPSD, that, you

1 know, there -- there may be conflicting information
2 out there and we'd, you know, be a little concerned
3 about that.

4 But we -- we trust that CWRM, DLNR, LUC
5 staff would, you know, bring us into those
6 conversations in a timely manner so that we can, you
7 know, be party to it and -- and -- and, you know, do
8 our job before the LUC in representing the State's
9 interests.

10 **CHAIR GIOVANNI:** So you -- thank you. So
11 you described -- the first part of your response was
12 the process, and you spoke to that in generic terms
13 of how it works for all agencies.

14 But our issue here today is that we're --
15 this particular group, CWRM is on record that
16 they're not getting -- that process is broken in
17 some cases. It's going to some intermediary desk or
18 agency -- Land Division, I think I heard, and it may
19 or may not reach CWRM, and so they're not even given
20 the opportunity to weigh in.

21 So can you comment on what assurances --
22 because what -- what we were asking for at the end
23 of the presentation that CWRM presented to us is --
24 is the three parties -- LUC, OPSD, and CWRM --
25 working together to make sure that matters of

1 interest, specifically water issues on a particular
2 petition, that the -- that CWRM was fully aware and
3 given the opportunity to weigh in through the
4 process back through OPSD through us. And it wasn't
5 working.

6 So what -- what -- what is the process
7 specifically for how you get information to CWRM?
8 Where does it go? Because you're not going to them
9 directly. We're hearing that.

10 **MS. BALASSIANO:** Because DLNR has many
11 different divisions, and so we have been instructed
12 by the -- by DLNR's Chair to send things to DLNR.
13 And then as Ms. Roth suggested, it goes to the Land
14 Division, and then it goes to another, you know,
15 six, seven different entities for their comments.

16 So, you know, unless DLNR tells OPSD that
17 they would like to have, you know, the
18 correspondence sent to them directly, we are abiding
19 by what we've, you know, heard from -- from DLNR --

20 **CHAIR GIOVANNI:** So if -- so now let's tie
21 it to a hypothetical MOU. So if an MOU,
22 hypothetically, was agreed to between the Chair of
23 the Board of Land and Natural Resources and the
24 Chair of the LUC that such -- such inquiries would
25 be sent by you directly to CWRM if they pertain to

1 certain -- certain matters and not through the
2 Legacy network at DLNR, that is something you could
3 do. But you don't have that guidance presently. Is
4 that correct?

5 **MS. BALASSIANO:** Yeah. I -- I -- we're
6 not sure that an MOU is necessary for that. We have
7 regularly been told by the various agencies if there
8 is a point person who should be receiving our
9 requests -- and, occasionally, that point person
10 changes as, you know, staff changes. However, we
11 would be happy to, you know, work something out with
12 -- with the Chair to, you know, see if there is a
13 different routing system that could be used. I'm --
14 I'm not sure that we would need an MOU to confirm
15 that with every single agency.

16 **CHAIR GIOVANNI:** Yeah. I tend to agree
17 with that as well.

18 Commissioners, anything further for either
19 CWRM or OPSD?

20 **COMMISSIONER LEE:** Chair --

21 **CHAIR GIOVANNI:** Commissioner Carr Smith?

22 Let me go Carr Smith and then I'll go
23 Commissioner Lee.

24 **COMMISSIONER CARR SMITH:** I'm sorry.

25 I was just wondering is there any reason

1 why we can't lengthen the time frame available for
2 these agencies to respond?

3 **CHAIR GIOVANNI:** It depends on the -- on
4 the -- the timing for petitions.

5 Mr. Orodenker, can you speak to the time
6 available for review by OPSD, CWRM, and the
7 agencies?

8 Mr. Orodenker, you look like you're going
9 in circles there. What's going on? There we go.

10 You're on mute, Mr. Orodenker.

11 **MR. ORODENKER:** In terms of time frames,
12 some of the -- some of the time frames may be, like
13 I say, as mentioned before, legally prescribed, like
14 201H projects or special permits. But generally,
15 there are 60 to 90 days -- 60 days, at least, for
16 other agencies and OPSD to provide us with comments.
17 Those are the time frames that we usually work with.

18 We make it clear that we need that -- all
19 the information assembled and presented to us by
20 both the petitioner, the County, and by OPSD, two
21 weeks before the hearing starts so that we can
22 formulate a staff report with the information.

23 Is that -- is that what you were looking
24 for?

25 **COMMISSIONER CARR SMITH:** Yeah. That's --

1 that's helpful. I mean, that seems like a fair
2 amount of time, so I was just trying to ascertain
3 whether timing is a big issue or it's more of a
4 routing process or it's more that maybe certain
5 agencies are too busy to respond, so they don't
6 respond. I don't think -- it sounds to me like OPSD
7 does what their process requires them to do. And if
8 people don't respond, that's their problem, not
9 really OPSD's or LUC's, in my opinion.

10 **MR. ORODENKER:** I -- I don't disagree with
11 that.

12 **CHAIR GIOVANNI:** So that means you agree
13 with that. If you "don't disagree" means you agree?

14 Got it.

15 **MR. ORODENKER:** There are -- I mean, we
16 went through this with -- what do you call it? --
17 Historic Preservation a while back over at DLNR as
18 well.

19 There are times when the internal
20 processes of the various agencies just wind their
21 way too slowly, and we don't get information. I
22 think you have to go back and look at why this whole
23 thing evolved. And that was because there was some
24 criticism in a couple of periodicals about the fact
25 that the Land Use Commission didn't seem to be able

1 to understand and have all the information in front
2 of it with regard to water, which is why we asked
3 CWRM to make the presentation.

4 And as the Chair stated earlier, water is
5 very important as part of our public trust doctrine
6 obligations. And that was why we had CWRM come and
7 talk to us to explain to the commissioners how their
8 processes worked.

9 There are a number of ways to go about
10 getting -- improving the situation, and an MOU is
11 just one way to do it. I think that it's up to this
12 commission on how they want to move forward with
13 regard to this particular issue.

14 **CHAIR GIOVANNI:** So, Mr. Orodenker, I have
15 a question.

16 So if you -- if you -- if staff receives a
17 petition, do you just -- do you send that petition,
18 without specific reference, to OPSD for comment, and
19 they decide what's -- what aspects to look into in
20 more detail with their own processes, or does our
21 staff, our LUC staff, look at that petition and say,
22 "Oh, this one might have some -- some particular
23 water issues that" and would you highlight that to
24 LUC -- to the OPSD staff so that they could know up
25 front that the LUC staff wants them to weigh in

1 specifically on that matter?

2 **MR. ORODENKER:** The answer to that is yes
3 and yes. I mean, we do send it directly, you know,
4 as a matter of course to OPSD without any comment on
5 it. However, as time approaches -- I mean, remember
6 a lot of times, these petitions are -- since we're
7 -- we -- we do contested case hearings are
8 preliminary filings. And as the time approaches for
9 the hearing and as we get more information from the
10 petitioners and from the County and from OPSD,
11 different issues arise, and so then we start asking
12 for OPSD for information with regard to certain
13 things.

14 Sometimes we don't even see it until the
15 hearing itself, but we make an effort to try and get
16 whatever information we can and make -- make OPSD
17 aware of what topics are going to be of concern for
18 the commission.

19 **CHAIR GIOVANNI:** Okay.

20 Is that --

21 **COMMISSIONER LEE:** Commissioner Lee.

22 **CHAIR GIOVANNI:** Yeah. I was going there.
23 I want to make sure Commissioner Carr Smith was
24 good.

25 **COMMISSIONER CARR SMITH:** (Nods head.)

1 **CHAIR GIOVANNI:** Yeah.

2 And before I go to you, Commissioner Lee,
3 do you have your hand up, Ms. Roth?

4 **MS. ROTH:** Thank you.

5 Yes, I just wanted to quickly add, you
6 know, in terms of the doc review routing process, I
7 just wanted to clarify that CWRM, we're actually
8 administratively attached to DLNR, so we're not an
9 official division which may play into some of the
10 routing issues we've experienced.

11 I'll also add that, you know, to your
12 point, Chair Giovanni, when we do receive those
13 requests for comments, as far as I know, it is not
14 explicit, like in bold, highlighted letters, "This
15 is of particular interest to CWRM. We need to know
16 X, Y, and Z about water."

17 That is not part of what's provided to us,
18 so it's really up to staff to review those
19 documents, you know, take a hard look, which we, you
20 know, obviously want to and should be doing. But I
21 just want to caveat that with the fact that we,
22 obviously, are a very underfunded and understaffed
23 agency and responsible for a tremendous amount of
24 work regarding water resource management.

25 So it is important for us to kind of be

1 flagged with, "Hey, pay attention to this one in
2 particular," which, again, is part of the intent of
3 this MOU for LUC staff to be able to flag that for
4 us or OPSD, whoever, you know, it makes more sense
5 to be the communicator of that information.

6 **CHAIR GIOVANNI:** Yeah. Thank you, Ms.
7 Roth.

8 Let me also add that in addition to
9 particular issues to be flagged, I'm also interested
10 in what you offered up in terms of new information
11 that might be forthcoming from your -- from your
12 work of your commission. That would be a relevant,
13 generic interest to LUC as it proceeds with its
14 work. So, also, interested in hearing from you on a
15 more regular basis on that.

16 So, Commissioner Lee, your turn.

17 **COMMISSIONER LEE:** Thank you, Chair.

18 You know, I also didn't recall that the --
19 there was any kind of a tacit invitation for an MOU
20 at this. And so it sounds to me like this is quite
21 a stretch. In fact, if there's an MOU, it should be
22 between CWRM and Land Division, not between LUC.

23 I mean, the -- this whole process where it
24 goes to OPSD first and then it goes down, I mean,
25 that was -- that was established by legislative and

1 administrative rule procedures, you know, and we're
2 -- an MOU circumvents that -- the -- the authority,
3 the deliberation, the chain of custody and command.

4 You know, I think it's a risk to do an MOU
5 because even though at the CWRM meeting, they said,
6 "Oh, well, it doesn't change anything, it's nothing
7 we, you know, we -- we can't do anyway."

8 I mean, just pick up the phone. It sounds
9 like someone's not doing their job if these
10 important decisions aren't being properly routed or
11 being communicated. And if we have an MOU, that
12 adds additional liability, I feel, to this thing.

13 This just -- there's already processes in
14 place. An MOU can make us run afoul of this
15 established authority and -- and -- and procedures.
16 And it brings up many of the same concerns that I
17 remember from Cal Chipchase's testimony on the
18 proposed administrative rules from last year.

19 So as I'd referenced that, I -- I asked
20 myself, "Whatever happened to those administrative
21 rules when they were proposed?" And I -- I recall
22 you, as Chair, asking the executive officer to
23 contact the various county planning departments for
24 comments and input on how the process can be
25 improved.

1 Has that ever been done? I don't think
2 so. So why aren't we working on things like that to
3 improve the process instead of an MOU (audio
4 disruption) us, that's unnecessary, and perhaps
5 we're not even the right party to this MOU. It
6 should be -- if the problem is in the internal
7 routing, then that's not our problem.

8 So I would be very much against an MOU. I
9 even think about the Supreme Court's Chevron
10 Decision -- decisions that are made by agencies
11 without deliberation and rulemaking, without
12 authority and legislative authority or statutory
13 authority.

14 And Dawn Chang, the Chair of DLNR, used to
15 be an LUC member, so I think she's well aware of the
16 processes necessary. So I -- I would be very
17 skeptical about skipping that.

18 So thank you, Chair.

19 **CHAIR GIOVANNI:** Thank you, Commissioner
20 Lee.

21 Anybody else further?

22 **MR. ORODENKER:** Mr. Chair, if I may, just
23 -- just to clarify.

24 **CHAIR GIOVANNI:** Go ahead, Mr. Orodenker.
25 And then I'll call on Commissioner U'u.

1 **MR. ORODENKER:** I'm sorry, Chair. I just
2 wanted to clarify that we did make a lot of effort
3 to discuss processes and need for the changes with
4 the various county agencies. We had a couple of
5 meetings on that. So that -- that was not -- that
6 -- that was done. I mean, it's not like staff
7 ignored that.

8 But, once again, as -- as I've said, this
9 commission has to decide how it wants to move
10 forward with regard to this particular --

11 **CHAIR GIOVANNI:** Fair enough.

12 Commissioner U'u.

13 **COMMISSIONER U'U:** Aloha. I just wanted
14 to add a few things, and one is I'm at an outside
15 park, that I'm about to lose service, FYI. I got no
16 plug-in. But I wanted to share my "manao" just in
17 case my battery runs out.

18 So I know a couple -- a few meetings ago,
19 we -- we were asking for more transparency, and as
20 someone brought up, maybe we -- we was lacking some
21 information to make the proper decisions in order to
22 guide us to make the best possible vote, I guess,
23 with the best information that we could have.
24 That's one I think it's lacking here.

25 I think two, to authorize the Chairperson

1 to enter an MOU and delegate to the Chairperson to
2 finalize the MOU and make non-substantial edits
3 appropriate, I -- I couldn't support that. And the
4 reason is I believe the body has the power, not just
5 the Chair. I think we run on nine people, and
6 everyone's different. To authorize any one person
7 for that one matter could be conflicting to what the
8 board feels as a whole.

9 And to add to that, I've not voted -- I
10 never had an opportunity to vote for the Chair. Not
11 saying I wouldn't vote for you, Dan, but it was
12 never given to me. That opportunity was never
13 given. And -- and that's what's different with this
14 commission than other commissions.

15 On other commissions, what I notice, to
16 have movements, say, like an MOU or any type of
17 change, it has to be done internally where the body
18 would come up with a TIG, and the TIG would come up
19 with an MOU to -- not only an MOU. The -- the --
20 the body will come up with the movement necessary to
21 see change needed within our body, not staff
22 creating rules or creating MOUs, talking to other
23 staff to create more rules and MOU. And -- and the
24 -- and the commission, the body, responds to what
25 the staff did, that is new to me too.

1 What's missing also in this MOU is not
2 just the body of the commission. It is the County
3 that's missing too; and, again, the -- the
4 plaintiffs who applied for this process. In order
5 to get by it from myself and others, I think we need
6 way more transparency than what is seen here, from
7 me anyway.

8 When I found out that this was on CWRM,
9 and I watched a little bit, guys, I love my life. I
10 -- I try to just do my job, and that's it. I heard
11 Dan say, "Oh, the staff creates the LUC." That's
12 what I heard from Dan -- Dan O. And I don't know
13 what staff. It could have been CWRM, it could have
14 been LUC, but I think it should have been brought up
15 to us.

16 We should have had the ability to steer or
17 navigate the process before CWRM. This is how I
18 feel. I feel -- was left out in the dark. And,
19 again, maybe again and again, I start pointing
20 fingers.

21 When I hear the terms "additional layers,"
22 when I hear the terms "lack of a better word" to
23 explain something, and for me to vote on a process
24 that is still unclear, I have to vote no in its
25 entirety, because I believe from the start, it --

1 it hasn't had the transparency and the belief for me
2 to believe in something that might help.

3 We already talked about -- and I agree
4 with what you said, Chair Giovanni. We gotta
5 respect all the issues, the EA and the EIS, 100
6 percent -- 100 percent. But we ought to respect for
7 the plaintiffs and the County and the commission to
8 require something to do this might potentially add
9 an additional layer.

10 We already know we have layers upon
11 layers. Land Use Commission, just to let you guys
12 know -- not Land Use Commission -- Land Use laws in
13 the state of Hawaii is ranked last place. We are
14 third more than any other place. So when I hear we
15 are creating you to get streamlined, I've never seen
16 one worked out in a favor of streamlining. Ever.

17 In my 20 years in dealing with government,
18 not once. So this is old news; it sounds like bad
19 news; it's not transparent. I'm running out of
20 time. If I had the opportunity, I would vote no.
21 Just letting you guys -- but if you want me to
22 create one, we'll create a TIG and take it through
23 the process because the end to solving -- solving
24 certain things that need to be solved. But I also
25 understand we need staff like Dan with the

1 experience to help us create that and who is left
2 out of this process.

3 Aloha.

4 **CHAIR GIOVANNI:** Aloha. Thank you,
5 Commissioner.

6 Commissioner Carr Smith.

7 **COMMISSIONER CARR SMITH:** Chair, I'd like
8 to make a motion based on presentation by the staff,
9 the testimony heard, and the subsequent record --
10 I'd make a motion to deny the memorandum of
11 understanding between the -- between CWRM and the
12 LUC, and to not authorize the Chairperson to enter
13 into this or any other similar written agreement
14 between the two agencies, and to not delegate the
15 Chairperson to finalize this MOU. This motion
16 essentially makes the document null and void.

17 **COMMISSIONER LEE:** Commissioner Lee. I
18 second.

19 **CHAIR GIOVANNI:** Slow down, everybody.

20 **COMMISSIONER CARR SMITH:** No.

21 **CHAIR GIOVANNI:** No, no. I'm not --

22 **COMMISSIONER CARR SMITH:** It's on the --

23 **CHAIR GIOVANNI:** -- I'm not slowing you
24 down. I'm -- I didn't call on this for a second
25 yet. That's -- that's where I'm slowing down.

1 So I just want to clarify your motion.

2 The Chair will entertain that motion. I think it's
3 a legitimate motion.

4 Let me ask Attorney General, Ms. Steed, do
5 you see any form or substance issues with the motion
6 that's -- that's been made?

7 **MS. STEED:** Motion is fine.

8 **CHAIR GIOVANNI:** Thank you. Do I have a
9 second to the motion?

10 **COMMISSIONER LEE:** Commissioner Lee. I
11 will second that motion.

12 **CHAIR GIOVANNI:** Thank you.

13 So, Commissioner Carr Smith, do you want
14 to speak to your motion?

15 **COMMISSIONER CARR SMITH:** Sure. I feel
16 the MOU is unnecessary. It sets an unnecessary
17 precedent. I think people can just talk to each
18 other. They don't have to limit the topics either
19 as identified. I don't think that's a good idea.
20 Why limit your topics?

21 **CHAIR GIOVANNI:** So let me --

22 **COMMISSIONER CARR SMITH:** So, yeah, I just
23 think -- oh --

24 **CHAIR GIOVANNI:** Let me clarify, if I may,
25 Commissioner Carr Smith, because I think you're kind

1 of doing two things at once.

2 **COMMISSIONER CARR SMITH:** I'm speaking to
3 why I made the motion.

4 **CHAIR GIOVANNI:** Let -- let me ask my
5 question. Let me ask my question of you and you
6 could clarify.

7 So on the one hand, your motion says that
8 you want to deny the specific MOU that was shared
9 with this commission by -- and presented to this
10 commission.

11 **COMMISSIONER CARR SMITH:** That's correct.

12 **CHAIR GIOVANNI:** And -- and the second
13 part is you want to not allow any further work to be
14 done -- these are my words, not yours -- by the
15 Chair or staff for the furtherance of a MOU. Is
16 that correct?

17 **COMMISSIONER CARR SMITH:** That's correct.
18 Without LUC being first informed.

19 **CHAIR GIOVANNI:** Okay. Yes. Let me ask,
20 if you don't mind, would you be amenable to taking
21 your motion, that I view to be in two parts, and to
22 make a separate motion for each?

23 So the first part would be --

24 **COMMISSIONER CARR SMITH:** I'm not sure why
25 that's necessary, but --

1 **CHAIR GIOVANNI:** Well, in my mind you --
2 it's -- it's an up and down vote to -- to accept or
3 deny the draft MOU as presented and on the record.
4 That's pretty simple. We can dispose of that.
5 Right?

6 **COMMISSIONER CARR SMITH:** Mm-hmm.

7 **CHAIR GIOVANNI:** The second part is
8 whether is in pursuit of a workable -- if I
9 interpret your motion correctly as you stated it,
10 you don't even want us to work on it or anything in
11 that direction. You think it's unnecessary.

12 **COMMISSIONER CARR SMITH:** I'm responding
13 to the agenda item which says: Authorize the
14 Chairperson to Enter into the MOU and to Delegate
15 the Chairperson to Finalize.

16 And those are the two things that I
17 mentioned in my motion.

18 **CHAIR GIOVANNI:** Okay. So you want to
19 deny both of those at one -- in one swoop.

20 **COMMISSIONER CARR SMITH:** Yes.

21 **CHAIR GIOVANNI:** Okay. Fine. I will
22 accept that.

23 Commissioner Lee, you agreed, that's your
24 understanding, and you second that motion?

25 **COMMISSIONER LEE:** Chair, I think that

1 it's just a simple thing. So there's no reason to
2 separate it. And I'll have some comments -- short
3 comments for it when the time is appropriate.

4 **CHAIR GIOVANNI:** Very well.

5 Commissioner Carr Smith, do you want to
6 speak further?

7 **COMMISSIONER CARR SMITH:** No. I -- well,
8 I was on my way to talking. I -- I -- I think I'm
9 good. Thank you.

10 **CHAIR GIOVANNI:** Okay.

11 Commissioner Lee, your turn.

12 **COMMISSIONER LEE:** Chair, I'll go back to
13 the words of the famous samurai philosopher Musashi
14 Miyamoto: "Do nothing which is of no use." And
15 that's what I think this MOU is. In fact, it
16 creates problems; not only not having any use. So I
17 am in strong support of this motion. Thank you.

18 **CHAIR GIOVANNI:** Thank you.

19 Commissioners. Commissioner Kahele.
20 You're on mute.

21 Commissioner Kahele, you're on mute.

22 **COMMISSIONER KAHELE:** I had a question,
23 but I'm just going to pass on my question. Thank
24 you.

25 **CHAIR GIOVANNI:** Okay. Thank you very

1 much.

2 Anybody else?

3 **COMMISSIONER YAMANE:** Mr. Chair?

4 **CHAIR GIOVANNI:** Who's that?

5 **COMMISSIONER YAMANE:** Commissioner Yamane.

6 **CHAIR GIOVANNI:** Commissioner Yamane.

7 **COMMISSIONER YAMANE:** Thanks, Mr. Chair.

8 You know, I'm inclined to support this
9 motion. Just a couple of comments. I do appreciate
10 CWRM's presentation to us. Back then, I found it
11 very informational and very useful, and I thought --
12 I think that's the impetus for their attempt with
13 this MOU. Obviously, there are other rationales on
14 why this MOU doesn't work.

15 But I did -- I did appreciate that. And I
16 think further updates from them, whether it's
17 related to a project or just in general, I thought
18 was very helpful for me as a commissioner to
19 understand that.

20 Secondly, I agree that I don't think this
21 MOU is necessary at this time, but just denying this
22 MOU doesn't really help me gain better understanding
23 on the water issues.

24 And some of what Commissioner U'u said, I
25 think we should and -- and ask our staff for a

1 solution on as commissioners how we can be best
2 informed on any specific water issues, CWRM's or
3 what that -- whatever that is. But I -- I really
4 hate to let this, you know, this opportunity go to
5 -- go to wayside that because I -- I found that
6 information very informative.

7 So, you know, just like I said, I'll --
8 I'll -- I'll support the motion, but I -- I really
9 don't want this to go to waste. And not talking
10 with CWRM, whether we invite them quarterly, whether
11 our own staff comes up with a way to work with them
12 -- and not just work with them within staff, but
13 somehow get that information to the commissioners
14 and come up with some kind of solution, that doesn't
15 have to be in a MOU. It just can -- something that,
16 as commissioners, we want to know about and see.

17 So with that being said, I would support
18 this motion.

19 **CHAIR GIOVANNI:** Thank you, Commissioner.
20 Commissioners, anybody else?

21 So I'm going to support this motion, but I
22 would -- I want to make a couple of comments.

23 I think that we have unearthed a real
24 issue of communication within government, and I
25 commend CWRM and Ms. Roth and her staff for trying

1 to resolve it, whether it be through an MOU or
2 raising the issue explicitly.

3 Let me also counsel OPSD, who will be
4 coming to make presentations before the LUC of its
5 own on -- on the inner workings of its staff and its
6 -- and its department in support of Land Use
7 matters.

8 Let me very strongly encourage OPSD to
9 tell this commission, when it comes before us, how
10 this issue has been addressed. The issue I'm
11 speaking of is there are a -- a -- hypothetically, a
12 petition of -- will be coming on land use before
13 this Land Use Commission, and there are water issues
14 that are flagged, and I'm -- I'm looking at our own
15 staff to flag those issues.

16 But I want to make sure if we flag a water
17 issue by our staff, it doesn't get lost in the
18 bureaucracy of the State someplace. It get -- it
19 makes its way to CWRM, and we give an adequate
20 amount of time so we can have the benefit of their
21 feedback and input prior to any decision- making and
22 consideration by LUC. That's the problem we want to
23 solve.

24 I don't think an MOU will necessarily
25 solve it. I will be supporting the motion.

1 Mr. Orodenger, take a rollcall, please.

2 **MR. ORODENKER:** I'm sorry, Mr. Chair, I'm
3 having technical difficulties.

4 Okay. There we go.

5 Thank you, Mr. Chair.

6 The motion is to deny the MOU as presented
7 on the record, and to render the MOU null and void,
8 and to not pursue any further completion of the MOU.

9 **MR. ORODENKER:** Commissioner Carr Smith.

10 **COMMISSIONER CARR SMITH:** Aye.

11 **MR. ORODENKER:** Commissioner Lee.

12 **COMMISSIONER LEE:** Aye.

13 **MR. ORODENKER:** Commissioner Yamane.

14 **COMMISSIONER YAMANE:** Aye.

15 **MR. ORODENKER:** Commissioner U'u.

16 **COMMISSIONER U'U:** Aye.

17 **MR. ORODENKER:** Commissioner Miyasato.

18 **COMMISSIONER MIYASATO:** Aye.

19 **MR. ORODENKER:** Commissioner Kamakea-

20 Ohelo.

21 **COMMISSIONER KAMAKEA-OHELO:** Aye.

22 **MR. ORODENKER:** Commissioner Kahele.

23 **COMMISSIONER KAHELE:** Aye.

24 **MR. ORODENKER:** Commissioner Hayashida.

25 **COMMISSIONER HAYASHIDA:** Aye.

1 **MR. ORODENKER:** Chair Giovanni.

2 **CHAIR GIOVANNI:** Aye.

3 **MR. ORODENKER:** Thank you. Mr. Chair, the
4 motion passes unanimously.

5 **CHAIR GIOVANNI:** Thank you. Let me
6 proceed. The next order of business is a meal
7 request. As our October 9th and 10th meetings will
8 be held at the airport, with limited access to
9 restaurants and the commission intends tends to work
10 through lunch, I would like to request staff to
11 arrange lunch to be provided to the commissioners
12 and staff to facilitate that meeting on October 9th
13 and 10th. Please acknowledge that by staff.

14 **MR. WONG:** Yes. Staff acknowledges that.

15 **CHAIR GIOVANNI:** Thank you very much.

16 **MR. ORODENKER:** Mr. Chair, we will make
17 sure --

18 **CHAIR GIOVANNI:** Okay. Commissioners, any
19 --

20 **COMMISSIONER CARR SMITH:** Chair?

21 **CHAIR GIOVANNI:** Where are -- who is that?

22 **COMMISSIONER CARR SMITH:** Sorry. When we
23 were going through the calendar, I thought we were
24 only going to be at the airport on the 10th. Is it
25 the 9th and the 10th?

1 **CHAIR GIOVANNI:** I don't know. I'm
2 reading from the script. Go ahead --

3 **COMMISSIONER CARR SMITH:** Okay. I'll just
4 watch the calendar.

5 **COMMISSIONER YAMANE:** I also heard that we
6 -- I also heard that we have nothing on the 9th too.
7 So I have it only on the 10th on Honolulu, so --

8 **MR. ORODENKER:** -- the 10th, Mr. Chair.
9 The -- the request was valid for the 10th.

10 **CHAIR GIOVANNI:** Okay. So the
11 clarification of the meal request is the 10th only.

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

13 **CHAIR GIOVANNI:** Okay.

14 Any further business, Commissioners, for
15 today? Hearing none, I consider this meeting to be
16 concluded, and it is adjourned. Thank you very much
17 for your time this morning and welcome to the first
18 day of football for --

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

20 **CHAIR GIOVANNI:** Okay. Bye-bye, everyone.

21 **COMMISSIONER CARR SMITH:** See you guys on
22 the Big Island.

23 **CHAIR GIOVANNI:** Bye, everybody.

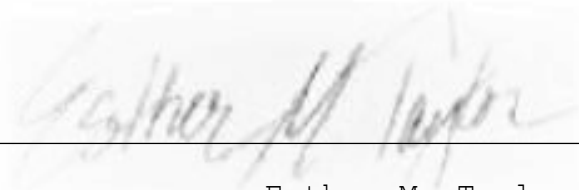
24 **(WHEREUPON, the meeting was concluded at**
25 **11:01 a.m.)**

CERTIFICATE

I, Esther M. Taylor, do hereby certify that I reported all proceedings adduced in the foregoing matter and that the foregoing transcript pages constitutes a full, true and accurate record of said proceedings to the best of my ability.

I further certify that I am neither related to counsel or any party to the proceedings nor have any interest in the outcome of the proceedings.

IN WITNESS HEREOF, I have hereunto set my hand this 24th day of September, 2024.



Esther M. Taylor