

STATE OF HAWAII LAND USE COMMISSION MEETING
Meeting held on Thursday, October 10, 2024

Commencing at 9:30 a.m.

Held at

Hawaiian Airlines Terminal Building
400 Rodgers Boulevard, Suite 700, Room 3
Honolulu, Hawaii 96819

VI. Call to Order

VII. SP21-412 Mahi Solar, LLC (Oahu)

Application to Amend SP21-412 (SUP No.
2020/SUP-7).

Request to modify Condition No. 4 of the LUC's Findings of Fact, Conclusions of Law, Decision and Order, certified on September 17, 2021, to extend the Petitioner's timeline for establishing the project by an additional three years. The subject Application is regarding approximately 620 acres in the Agricultural District, identified as TMK Nos. (1)9-2-001:020

(por.), (1) 9-2-004:003 (por.) and 010 (por.).

VIII. Adjournment.

BEFORE:

PARTICIPANTS:

LUC COMMISSIONERS:

Dan Giovanni, Chairman

Kuike Kamakea-Ohelo

Mel Kahele

Michael Yamane

Nancy Carr Smith

Bruce U'u

Brian Lee

LUC STAFF:

Daniel Orodener, Executive Officer

Scott Derrickson, Chief Planner

Martina Segura, Planner

Ariana Kwan, Chief Clerk

Melissa Goldman, Esquire, Deputy Attorney General

REPRESENTATIVES FOR MAHI SOLAR, LLC:

Randall Sakumoto, Esquire

Wren Wescoatt, Mahi Solar

Tracy Camuso, G70

PARTICIPANTS CONTINUED

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

John Dubiel, Esquire, Deputy Corporation Counsel
Franz Kraintz

OFFICE OF PLANNING AND SUSTAINABLE DEVELOPMENT
("OPSD"):

Alison Kato, Esquire, Deputy Attorney General
Katia Balassiano, Planning Program Administrator

1 HAWAII LAND USE COMMISSION HEARINGS

2 CONDUCTED ON

3 THURSDAY, OCTOBER 10, 2024

4 9:00 A.M.

5
6 CHAIRMAN GIOVANNI: Hello. Mai kakou.

7 Good morning, everyone. This is the October 10,
8 2024, Land Use Commission meeting. This is an in-
9 person meeting, physically located at the Airport
10 Conference Center in Hawaiian Airlines Terminal
11 Building. It's at 400 Rodgers Boulevard on the 7th
12 floor, Suite 700, Room number 3, Honolulu, Hawaii
13 96819. And this meeting is open to the public.

14 Court reporting transcriptions are being
15 done from this Zoom recording of this meeting. For
16 all meeting participants, I would like to stress the
17 importance of speaking slowly, clearly, and directly
18 into your microphone. And before speaking each
19 time, please state your name and identify yourself
20 for the record.

21 This is an in-person meeting. And please
22 be aware that all meeting participants are being
23 recorded on the digital record of this Zoom meeting,
24 and it will be used for court reporting purposes.
25 And it will be posted on YouTube.

1 Your continued participation is your
2 implied consent to be part of the public record of
3 this event. If you do not wish to be part of the
4 public record, you should exit the meeting now.

5 I will also share that, from time to time,
6 we'll be taking breaks, normally five minutes every
7 hour. And if the meeting continues through the
8 lunch period, we'll take a longer break for lunch.

9 My name is Dan Giovanni, and I have the
10 pleasure to serve as the LUC Chair. We have nine
11 seated Commissioners and seven of which are here
12 with me today -- Michael Yamane, Commissioner from
13 Island of Kauai; Commissioner Kamakea-Ohelo and
14 Commissioner Mel Kahele and Commissioner Brian Lee
15 are from the are from the Island of Oahu.

16 Commissioner Carr Smith is from Hawaii Island, and
17 Commissioner Bruce U'u is from Maui Island.

18 Excused from today's meeting are
19 Commissioners Hayashida and Miyasato.

20 Also in attendance are LUC Executive
21 Officer Danny Orodener, LUC Chief Planner Scott
22 Derrickson, LUC Staff Planner Martina Segura, LUC
23 Chief Clerk Ariana Kwan, and LUC Attorney General
24 Melissa Goldman.

25 Again, a reminder, court reporting

1 transcriptions are being done from this Zoom
2 recording.

3 Commissioners, I'd like to take a minute
4 upfront to just follow through and clarify with how
5 we want to finalize and adopt the order from
6 yesterday's decision. If you recall, Mr. Orodanker
7 said that we tentatively have a meeting date
8 scheduled, an in-person meeting date scheduled,
9 purely to adopt that order in late October. But
10 it's a simple denial, and my preference is that it
11 be handled without the -- the need for a formal
12 meeting.

13 So if -- if -- if there's no objection
14 from my Commissioners, I would like the authority to
15 sign that order once it's repaired. I'd like it to
16 be prepared by the Executive Director and staff,
17 circulated to all Commissioners for review and
18 comment, then finalized and then sent to me for
19 signature.

20 Do any Commissioners have an objection to
21 this approach? If not, I'd like to proceed with it
22 as I described it.

23 (No audible response).

24 CHAIRMAN GIOVANNI: So be it. So staff,
25 please be advised that, for the adoption of the

1 order from yesterday, which is a denial of the
2 request for declaratory ruling, we ask that you
3 draft the order, that you circulate it to all
4 Commissioners for comment, you receive the comment,
5 you finalize it, and you send it to me for
6 signature. And we could e-scan that.

7 So we will not have to -- to have a
8 meeting. I think it was October 23rd?

9 MS. KWAN: 24th, Chair.

10 CHAIRMAN GIOVANNI: October 24th, yeah.

11 So we can take that off the calendar. Thank you
12 very much.

13 MS. KWAN: Understood.

14 CHAIRMAN GIOVANNI: Thank you,
15 Commissioners.

16 So our seventh order of business for this
17 two-day meeting is SP21-147 Mahi Solar, Application
18 to Amend SP -- excuse me -- 21-421 by modifying
19 Condition 4 of the LUC's finding of fact,
20 conclusions of law, decision and order, certified on
21 September 17th, 2021, to extend the Petitioner's
22 timeline for establishing the project by an
23 additional three years.

24 At this time, I'd like the parties to
25 identify themselves.

1 MR. SAKUMOTO: Thank you, Mr. Chair.
2 Randall Sakumoto on behalf of Mahi Solar, the
3 petitioner.

4 CHAIRMAN GIOVANNI: Do you have any people
5 with you today?

6 MR. SAKUMOTO: Yes, thank you. With me
7 today is Mr. Wren Wescoatt, also representing Mahi
8 Solar.

9 CHAIRMAN GIOVANNI: Thank you very much.
10 From the County?

11 MR. DUBIEL: Good morning, Chair, Board.
12 John Dubiel, Deputy Corporation Counselor for the
13 City and County of Honolulu. And with me today is
14 Mr. Franz Kraitz.

15 CHAIRMAN GIOVANNI: Very good.
16 And from OPSD?

17 MS. KATO: Good morning. Alison Kato,
18 Deputy Attorney General for the Office of Planning
19 and Sustainable Development. Also here is Katia
20 Balassiano from OPSD.

21 Thank you.

22 CHAIRMAN GIOVANNI: Great. Thank you very
23 much.

24 COMMISSIONER LEE: Chair?

25 CHAIRMAN GIOVANNI: Mr. Lee?

1 COMMISSIONER LEE: Yeah. Point of
2 clarification. I think the Mahi Solar's SP21-412,
3 and I believe it was recited as 421.

4 CHAIRMAN GIOVANNI: It's a typo in my
5 scripts. Is it -- can staff confirm if it's 412 or
6 421?

7 MS. KWAN: It's 412.

8 CHAIRMAN GIOVANNI: Okay. So thank you,
9 Commissioner. Lee. It was a typographical error in
10 my script.

11 So to correct, the application is to amend
12 SP21-412.

13 Thank you.

14 So now I'd like to review the
15 reimbursement policy.

16 So Mr. Sakumoto, have you reviewed HAR
17 1515-45.1 regarding the reimbursement hearing
18 expenses?

19 MR. SAKUMOTO: Yes, Chair.

20 CHAIRMAN GIOVANNI: Would you state your
21 client's position with respect to this policy?

22 MR. SAKUMOTO: We accept the policy.

23 CHAIRMAN GIOVANNI: Very good. Thank you.

24 At this time, we'll address the potential
25 for disclosures and conflicts of interest. In

1 accordance with HRS -- excuse me -- 84-14,
2 Commissioners are now allowed to take any official
3 action affecting a business in which they or a
4 member of their family has a financial interest and
5 must, therefore, recuse themselves form this matter
6 if there is any benefit, monetary or otherwise, to
7 themselves or members of their family.

8 Also, in accordance with legal, ethical
9 standards, Commissioners should disclose any
10 relationships, businesses, social or otherwise, that
11 they may have with the petitioner or its
12 representatives or of any other parties to this
13 proceeding that may give rise to the allegation of
14 bias or impropriety.

15 Do any Commissioners have any conflicts of
16 interest or disclosures they'd like to make at this
17 time?

18 COMMISSIONER LEE: Chair.

19 CHAIRMAN GIOVANNI: Commissioner Lee?

20 COMMISSIONER LEE: Thank you. I'd like to
21 disclose that, three years ago, I participated in
22 proceedings at the Honolulu Planning Commission on
23 this -- this petitioner's application, and I
24 presented as Chair as well. And so I did check with
25 the State Ethics Commission and the Executive

1 Director. And the -- Robert Harris, the Executive
2 Director, said that there was no ethical conflict.

3 And then I checked with our Deputy -- our
4 Madam Deputy Attorney General, and she said that
5 there was no legal impediment. And the standard
6 would be whether I would be impartial. And I do not
7 have any financial interest, unfortunately, in this
8 project, nor do I have any personal relationship
9 with the -- any of the petitioners or their -- their
10 principals or their -- their party.

11 And so I feel that I can be impartial,
12 especially since it was three years ago and I don't
13 remember anything about it.

14 CHAIRMAN GIOVANNI: I'm sure you remember
15 something. But nonetheless --

16 COMMISSIONER LEE: I remember owls, and
17 that's about it.

18 Thanks.

19 CHAIRMAN GIOVANNI: Commissioners, any
20 comment or concern with the Commissioner Lee --
21 Commissioner Lee proceeding at -- on this matter? I
22 have none.

23 (No audible response).

24 CHAIRMAN GIOVANNI: Parties, any comment?

25 MR. SAKUMOTO: No, Chair.

1 CHAIRMAN GIOVANNI: Thank you.

2 County?

3 MR. DUBIEL: No comment.

4 CHAIRMAN GIOVANNI: State?

5 MS. KATO: Alison Kato. No comment.

6 Thanks.

7 CHAIRMAN GIOVANNI: Thank you. So please
8 continue.

9 Commissioners, any other disclosures?

10 (No audible response).

11 CHAIRMAN GIOVANNI: I only have an
12 informal disclosure. Mr. Wescoatt and I have
13 crossed paths many times in the last 15 years when I
14 was formerly with Hawaiian Electric Company. Yeah,
15 I don't think that will have any influence on my
16 decision-making today.

17 So if anybody has any concerns, please let
18 me know. Anybody?

19 (No audible response).

20 CHAIRMAN GIOVANNI: Parties?

21 MR. SAKUMOTO: Randall Sakumoto. No
22 concerns.

23 CHAIRMAN GIOVANNI: Thank you.

24 MR. DUBIEL: John Dubiel. No concerns.

25 CHAIRMAN GIOVANNI: Thank you.

1 MS. KATO: Alison Kato. No concerns.
2 Thank you.

3 CHAIRMAN GIOVANNI: Thank you.

4 So we shall proceed. Let me briefly
5 explain the procedure for today. Turn the page,
6 Dan.

7 First, I will recognize the written public
8 testimony that has been submitted on this matter.

9 Next, I will call for members of the
10 public who wish to provide oral testimony on this
11 matter.

12 Petitioner will then be called upon to
13 make their presentation.

14 After the petitioner's presentation, I
15 will ask the County and then the State to present
16 their comments.

17 The Commissioners will have opportunities
18 to ask questions of the parties at the conclusion of
19 each of their presentations. I will then reopen the
20 floor to the general public again for new and
21 additional oral testimony. Then the parties will be
22 given an opportunity for closing arguments.

23 Finally, the Commission will deliberate on
24 the matter based on the testimony and evidence it
25 has been presented.

1 Again, I'm going to remind you that I will
2 be taking breaks from time to time. And if the
3 matter continues through lunchtime, we'll take a
4 longer break.

5 Please be informed that relevant records
6 and documents pertaining to this matter can be
7 addressed and accessed for review on the LUC
8 website. And I'll say this twice:

9 <https://luc.hawaii.gov/sp21-412>. That is
10 <https://luc.hawaii.gov/sp21-412>.

11 We'll now proceed with public testimony.

12 Ms. Kwan, has there been any written
13 public testimony submitted on this matter?

14 MS. KWAN: Yes, Mr. Chair. We received
15 two written testimony, one from Department of Ag and
16 one from Hawaii Regional Council of Carpenters.

17 CHAIRMAN GIOVANNI: Have both of these
18 been posted to our website --

19 MS. KWAN: Yes, Mr. Chair.

20 CHAIRMAN GIOVANNI: Thank you.

21 Ms. Kwan, are there any members of the
22 public who have indicated they wish to provide oral
23 testimony today?

24 MS. KWAN: No, Mr. Chair.

25 CHAIRMAN GIOVANNI: Very good. If they

1 do, they'll be given an opportunity later.

2 We'll now proceed with presentations.

3 Mr. Sakumoto, let me ask if either of your
4 associates plan to give testimony. I'd like to
5 swear them in upfront.

6 MR. SAKUMOTO: Mr. Wescoatt will be
7 providing some testimony. And it's possible that
8 one of the planners from G70, Kawika McKeague, who
9 is sitting here, will also be asked to provide some.
10 We don't have anything scheduled for him. But if
11 there are questions pertaining to his area of
12 expertise, he'll be called upon.

13 CHAIRMAN GIOVANNI: Okay. Let's take care
14 of Mr. Wescoatt.

15 Mr. Wescoatt, will you state your name and
16 affiliation? And then I'll swear you in.

17 MR. WESCOATT: Wren Wescoatt with Mahi
18 Solar.

19 CHAIRMAN GIOVANNI: And do you swear the
20 testimony you're about to give today will be the
21 truth?

22 MR. WESCOATT: I do.

23 WREN WESCOATT, having been duly sworn to tell the
24 truth, testified as follows:

25 CHAIRMAN GIOVANNI: Thank you. Please

1 proceed, and we'll address the other gentleman, if
2 and when.

3 MR. SAKUMOTO: Thank you, Chair.

4 Aloha, Commissioners. My name is Randall
5 Sakumoto. And as I mentioned earlier, I'm here
6 representing the petitioner, Mahi Solar, LLC.

7 In September of 2021, this Commission
8 approved a special use permit to allow Mahi Solar to
9 develop a solar energy facility and certain
10 accessory uses on approximately 620 acres of land in
11 Kunia.

12 Go to the next slide, Casey.

13 This slide, for the record, refers to 650
14 acres. But as I mentioned earlier, it is
15 approximately 620 acres of land.

16 Condition 4 of the LUC's approval provided
17 that the project be established within three years
18 of the LUC's decision and order. However, the
19 approval also contemplated the possibility of
20 unforeseen circumstances beyond the control of
21 Petitioner and allowed Petitioner to request an
22 extension of this deadline, provided such request
23 was submitted prior to September of 2024.

24 Due to unforeseen circumstances beyond the
25 control of the petitioner, the project could not be

1 established by the original deadline. As a direct
2 result of the COVID-19 pandemic, there was a global
3 supply chain crisis. This crisis, in turn, caused
4 labor shortages, logistics delays and significant
5 price increases and -- on both materials and
6 services.

7 Today we're here to discuss those
8 circumstances and request that the Land Use
9 Commission give the petitioner a reasonable
10 extension of time to establish the project.

11 We recognize that with the exception of
12 Chair Giovanni and, I -- I guess, Commissioner Lee,
13 none of the other current Commissioners were on the
14 Commission when this matter was first presented in
15 2021. So we thought that it might be helpful to
16 provide a brief summary of the project as well as a
17 brief overview of some of the key events which led
18 us to where we are today.

19 CHAIRMAN GIOVANNI: That's a good idea.
20 Please proceed.

21 MR. SAKUMOTO: Okay. Next slide. Oh, go
22 back one. I'm sorry.

23 MR. WESCOATT: Good morning,
24 Commissioners. Wren Wescoatt with Mahi Solar.

25 The -- this solar project, in response to

1 Hawaiian Electric's request for proposals, we -- we
2 have submitted the Mahi Solar project was proposed
3 and was selected by Hawaiian Electric as part of
4 their Stage 2 proposal in 2019.

5 The project is designed as 120 megawatts.
6 That's about -- will generate enough power for about
7 37,000 Oahu homes. There is a 40-megawatt hour
8 battery storage system, which the goal of that is to
9 -- the purpose of that is to -- the solar energy
10 facility produces power during the day, obviously.
11 The batteries -- like some of you may have batteries
12 on your home -- store the power that's produced
13 during the day so that it can be dispatched by the
14 utility in the evening.

15 The location of the project is west of
16 Kunia Road, mauka of Royal Kunia, and downhill from
17 Kunia Loa Ridge Farmlands. The area on the -- on
18 the illustration, the map that's shaded in blue is
19 the area that would -- where we would be installing
20 solar panels and also have the agricultural
21 activities. And the project will connect to the
22 existing 138 kV power lines.

23 Next slide, please.

24 We are -- Mahi Solar proceeded through the
25 process to apply for and received approval for a

1 special use permit, or state special permit, a
2 conditional use permit from the City and County, and
3 it completed a power purchase agreement with
4 Hawaiian Electric. All of these were approved in
5 2021.

6 Then, unfortunately, for many reasons,
7 following the pandemic, the global supply chain
8 crisis really drove up prices, both -- and you've --
9 you've seen it everywhere, right? You saw it for
10 bread, for milk, for lots of things. For equipment,
11 particularly, the equipment we were needing -- the
12 steel for the racking, the battery systems, the --
13 and -- and a lot of the shipping costs -- the price
14 -- prices increased far beyond what the project
15 could afford.

16 We had already agreed to a price in the
17 power purchase agreement that was approved by
18 Hawaiian Electric and the Public Utilities
19 Commission. So you know, we were concerned that the
20 price -- it -- the project was just no longer
21 economic.

22 So through the terms in our power purchase
23 agreement, we were able to -- we -- we were forced
24 to declare that project null and void at that time.
25 And the PUC recommended that we bid into the next

1 RFP. This was unfortunate, but it -- that's what
2 happened for this project.

3 However because we intended to do that, to
4 bid the project in the future, we continued our
5 commitments to pursue the agricultural research,
6 which I'll go into in a little further detail. We
7 contracted with the Hawaii Ag Research Center to
8 test different crops that might grow under solar
9 panels to learn more about that.

10 We also executed a sublease -- oh, sorry
11 -- oh, sorry -- we purchased -- I'm following down.
12 So in the bottom, righthand corner, we purchased a
13 portion of the land from one of the landowners. So
14 Longroad Energy Management is the parent company of
15 Mahi Solar. So Longroad Energy, an affiliate,
16 purchased the land, about 220 acres, in March 2023,
17 fully intending to go forward with the project.

18 We re-bid the Mahi Solar project into the
19 next Hawaiian Electric RFP, which they refer to as
20 Stage 3, in April of '23. And then we were,
21 fortunately, selected for an award in December of
22 '23. And we began negotiations with Hawaiian
23 Electric. We started our interconnection study and
24 started that process over again.

25 CHAIRMAN GIOVANNI: So Mr. Wescoatt, just

1 a quick --

2 MR. WESCOATT: Yes.

3 CHAIRMAN GIOVANNI: -- quick, clarifying
4 question. We have 620 acres.

5 MR. WESCOATT: Yes.

6 CHAIRMAN GIOVANNI: Does -- does Longroad
7 own all of that, or do they own part of it and lease
8 the rest?

9 MR. WESCOATT: Yes. We own part of it.
10 So of the 620 acres, we purchased about 220 acres of
11 that -- of that total. So Hartung Brothers, Inc.,
12 was the owner of the land -- a portion of the land.
13 We purchased that section -- that portion from them.

14 CHAIRMAN GIOVANNI: And who owns the other
15 400?

16 MR. WESCOATT: The other 400 was later
17 sold to Bayer, Inc.

18 CHAIRMAN GIOVANNI: Bayer --

19 MR. WESCOATT: Bayer, yeah. Yeah. They
20 -- they -- they bought Monsanto. And so you'll see
21 a reference into Monsanto, Hawaii, own a portion of
22 the land. Another portion was purchased by Bayer.

23 So we're leasing land --

24 CHAIRMAN GIOVANNI: From Bayer.

25 MR. WESCOATT: -- for the remainder of the

1 land from Bayer and then from Fat Law Farms and
2 others. About 300 acres is owned by Fat Law Farms.
3 And we can look at the specific parcels.

4 CHAIRMAN GIOVANNI: Okay. Please clarify
5 that at --

6 MR. WESCOATT: Sure.

7 CHAIRMAN GIOVANNI: -- time.

8 MR. WESCOATT: And then we did sublease,
9 as is the intention with this project, because
10 agriculture activities are -- we plan to work with
11 local farmers and ranchers. We did execute a
12 sublease for our -- for -- for about 45 acres of the
13 project area that will be used for hydroponic
14 lettuce farming in between the solar panels.

15 So the goal is eventually to get the
16 entire project. But that was our first sublease, so
17 we felt that was the positive step.

18 Next slide.

19 MR. SAKUMOTO: This next slide, I think,
20 addresses some of the questions, Chair, that you had
21 about the land ownership. It's intended to show
22 that while the events surrounding the initial power
23 purchasing agreement created significant challenges
24 for the petitioner and its ability to establish a
25 project, the petitioner remained determined to get

1 the project off the ground.

2 They have continued to move forward with
3 the acquisition of these various real estate
4 interests to take control of the petition area. And
5 as Mr. Wescoatt will explain later, they have taken
6 significant steps to establish the contemplated
7 agrivoltaics program.

8 Just for the record, the petitioner's
9 affiliate, LSH Landholdings, LLC, entered into an
10 option agreement with Monsanto to acquire a
11 leasehold easement in 32.5 acres of land identified
12 by Tax Map Key number 9-2-1, parcel 1.

13 In February of 2022, the petitioner and
14 the owner of Lot 882-A, which is a 425.963-acre
15 parcel of land that's part of the petition area,
16 entered into a long-term lease agreement.

17 Then in March of 2023, Petitioner's
18 affiliate acquired the fee simple interest in two of
19 the created condominium units in the condominium
20 project known as Kunia Section 6 Condominium
21 Project. I'll explain in more detail about that
22 later.

23 And then as I mentioned, you know,
24 pursuant to Condition number 1 of the SUP,
25 Petitioner has completed the agricultural plan for

1 the project and has continued to invest time and
2 money to execute that plan, including engaging the
3 Hawaii Agricultural Research Center to conduct
4 research on what crops can be successfully grown
5 between the solar panels.

6 Just to elaborate on the -- what I said
7 earlier about this Kunia Section 6 condominium, the
8 land is owned by Hartung Brothers Hawaii, LLC. And
9 in March of 2023, they created an agricultural
10 condominium property regime over their land and this
11 included parts of the petition area.

12 So as a result of the creation of these
13 agricultural condominium property regime units, Mahi
14 Land Holdings, LLC, Petitioner's affiliate, acquired
15 units 2 and 4 of this condominium project.

16 So anyway, that's basically a little
17 background of why some of the Tax Map Key numbers
18 may not be exactly the way they are reflected on the
19 petition, because when the CPR was created, the City
20 assigned new TMK numbers to these parcels.

21 Okay. Okay. Next slide.

22 MR. WESCOATT: So since we began --

23 CHAIRMAN GIOVANNI: So name again.

24 MR. WESCOATT: Yes.

25 CHAIRMAN GIOVANNI: State your --

1 MR. WESCOATT: Oh, yes. Wren Wescoatt,
2 Mahi Solar.

3 We have been -- so we have been working
4 with the Hawaii Ag Research Center and funding a --
5 you know, right now, I believe we're in the third
6 year of four years of funding to -- for Park to
7 identify -- to work on an existing solar farm and
8 identify -- do testing, both under the panels,
9 between the panels, and then out in open area to
10 determine what crops could grow successfully in our
11 -- in our, you know, local environment under or
12 between solar panels.

13 They have since tested, I believe, 35
14 different crops. Some of them are shown here in the
15 photos -- carrots, jalapeno peppers, broccoli,
16 celery, asparagus, and then some -- there's, like, a
17 soba, which is the bottom, righthand corner, as a
18 ground cover -- the -- the goal being to -- in a
19 research setting, to understand -- starting with
20 research, understanding what crops can grow
21 successfully. Are there certain kinds of -- what's
22 the water use? What kind of soil amendments need to
23 be made? So sort of understanding the best
24 practices so that we can share that information with
25 farmers and with other solar companies to,

1 hopefully, encourage more use of solar land for
2 agriculture.

3 So we have had many farmers come onto the
4 site and want to learn more about what -- what might
5 be -- what might be possible to -- to grow under and
6 between solar panels.

7 The goal is to move, of course, from
8 research into commercial farming throughout the
9 petition area. So we are talking with different
10 farmers about how this research might be expanded on
11 a commercial scale so that farmers can be -- use the
12 land successfully.

13 It does take some -- as you can imagine,
14 farming under solar panels does take some adjustment
15 for both the farmer and the solar company. But we
16 have -- so far, the discussions have been -- been
17 pretty productive.

18 Farmers tend to be conservative, like
19 solar developers, I guess. So -- so there is sort
20 of a learning curve and figure -- you know, talking
21 with each other and figuring out can we adjust the
22 way as in operating a solar farm that we service the
23 panels. So maybe we don't need to drive vehicles
24 down every row, which we're used to. And can the
25 farmers find ways to work with their equipment and

1 plant and harvest success -- and irrigate
2 successfully in a solar farm?

3 So there's definitely some give and take,
4 but we've had really good discussions. And the goal
5 of agrivoltaics is to share the same land for both
6 so we can have local energy and local food
7 production from the same acre.

8 And so that's -- that's really the goal.
9 We've had really good discussions so far. We've had
10 lots of folks out to visit our demonstration site.
11 And it -- it looks great. I mean, have -- having
12 been to many solar farms, it is, candidly, the best-
13 looking solar farm, you know, once you have -- you
14 have vegetables, you have carrot growing under --
15 you know, carrots. You know, it looks great from a
16 solar perspective.

17 And it also is a -- having vegetation,
18 low-level vegetation, growing under the solar
19 actually can keep the air cooler, slightly cooler,
20 which improves the efficiency of the panels a little
21 bit. So we believe there's a synergy here that we
22 are looking forward to pursuing.

23 We did -- as I mentioned, we signed up for
24 a sublease for 45 acres for a hydroponic lettuce
25 producer that has a trough -- a trough about 8 feet

1 wide and about 12 inches high. It is built between
2 the solar panel rows because lettuce does not like
3 full sun. So it wants shade during the morning,
4 shade in the afternoon. And so it gets maybe four
5 or five hours of sun instead of eight. And it --
6 the lettuce grows much more -- it grows better. It
7 doesn't have the burning. And that's really what
8 we're -- what we're shooting for.

9 MR. SAKUMOTO: Randall Sakumoto.

10 This next slide just recaptures, I think,
11 what we've already covered. But just to go through
12 it very quickly, you can see here at the very far
13 left when the initial power purchase agreement was
14 first established. Following that, there were
15 significant disruptions and enormous cost increases
16 caused by the COVID-19 pandemic.

17 Thereafter, there was the first amendment
18 of the power purchase agreement, which had to be
19 later declared void, and the second amendment of the
20 power purchase agreement, which was later rejected
21 by the Public Utilities Commission. Then,
22 ultimately, as Mr. Wescoatt explained, Mahi Solar
23 was forced to declare that PPA null and void.

24 Thereafter, Hawaiian Electric Company
25 issued a new RFP, and Mahi Solar was the successful

1 bidder in that process and received the award.

2 And basically, that's what has taken place
3 during that timeline.

4 Next slide.

5 As noted earlier, the Land Use Commission
6 D&O was approved on September 17, 2021. And
7 Condition number 4 of the D&O requires that the
8 project be established within three years of the
9 Land Use Commission's decision and order.

10 Next slide, please.

11 So initially, our request was to request
12 an extension of the time to establish a project by
13 three years. Later, when we realized the
14 significant hurdle that still needed to be overcome,
15 which was the power purchase agreement with HECO, we
16 had modified our request to the Planning Commission
17 to be the later of three years after the Land Use
18 Commission issues its decision and order on this
19 amendment or the date -- two years after the that
20 the power purchase agreement is signed.

21 The City expressed some concerns at the
22 Planning Commission level with regards to that
23 request because they felt -- I think it was an open-
24 ended request, not knowing when the power purchase
25 agreement was going to be signed. And so after

1 discussions with Mahi Solar and the City, we settled
2 on a request for a five-year extension of time.

3 We're trying to balance out the need to
4 have a definitive date for establishing the project,
5 but also a reasonable one so that, you know, we
6 could accomplish it, you know, with all the things
7 which still remain to be done. And -- and there are
8 quite a few things which are left, even after today.

9 The -- if this Commission approves,
10 essentially, the modification to Condition number 4
11 of your D&O would basically say that we -- the
12 project be established within the five years after
13 the date of the decision and order approving this
14 amendment.

15 Okay. Yeah.

16 That's all I have for our presentation,
17 Mr. Chair.

18 CHAIRMAN GIOVANNI: Thank you, Mr.
19 Sakumoto and Mr. Wescoatt.

20 So I'm going to invite the parties, see if
21 they have any direct questions for you. And then
22 we'll go to Commissioners.

23 So the City and County, any comment or
24 questions?

25 MR. DUBIEL: We have no comment or

1 questions.

2 CHAIRMAN GIOVANNI: Thank you.

3 OPSD?

4 MS. KATO: Alison Kato. No questions.

5 Thank you.

6 CHAIRMAN GIOVANNI: Thank you.

7 Commissioners, comments or questions?

8 Commissioner Yamane?

9 COMMISSIONER YAMANE: Thank you, Mr.

10 Chair.

11 Just a couple of questions for the
12 petitioners. I -- I think on your -- on your
13 statement -- on your presentation, you said 40
14 megawatt hours, but I think you meant 480, correct?
15 Yeah.

16 MR. WESCOATT: Wren Wescoatt, Mahi Solar.
17 480 megawatt hours. Apologies.

18 COMMISSIONER YAMANE: Thank you.

19 Could you tell me what, in your opinion,
20 establishment of the project means? Like, what --
21 what does that mean, in your opinion?

22 MR. WESCOATT: Mr. Sakumoto, do I have an
23 opinion on that?

24 Yeah. Wren Wescoatt, Mahi Solar.

25 I -- I -- I understand that to mean the

1 completion of construction.

2 COMMISSIONER YAMANE: Is that basically
3 your in-service date or not -- just --

4 MR. WESCOATT: Yeah. I think that would
5 be when we complete the project, and it becomes
6 commercially operational.

7 COMMISSIONER YAMANE: Commercially operate
8 --

9 MR. WESCOATT: Yeah.

10 COMMISSIONER YAMANE: Thank you.

11 MR. WESCOATT: Yeah, yeah. So that means
12 HECO testing, it's connected to the grid, delivering
13 power to the grid.

14 COMMISSIONER YAMANE: Got it. Thanks.
15 And then --

16 CHAIRMAN GIOVANNI: Let me -- I think the
17 term in the PPA is GCOD, general commercial
18 operation date?

19 MR. WESCOATT: Guaranteed commercial
20 operation date. Yeah. COD, yeah. Commercial
21 operations, yeah.

22 COMMISSIONER YAMANE: Thanks.

23 And so my understanding is what -- you
24 have been awarded from HECO, but you are in
25 negotiations with the PPA. So there is no signed

1 PPA with Hawaiian Electric right now.

2 MR. WESCOATT: That's correct. A few
3 years ago when we came before the Commission, a PPA
4 was signed, and that was completed. Now it is not.
5 We're still in negotiations with Hawaiian Electric.
6 We're still in the interconnection study. The
7 interconnection requirement study is still going on.
8 So there's some -- still work to do there.

9 COMMISSIONER YAMANE: Okay. So you're
10 kind of in the beginning phases. You -- basically,
11 you're the -- you're the finalist for this -- in
12 this area.

13 MR. WESCOATT: There -- the RFP selects --
14 the -- Hawaiian Electric selects several winners, or
15 awardees. So there's three or maybe four on Oahu
16 that were selected. So they move forward with all
17 of them. So that's the -- that's the final award.
18 So there's no more selection after that. These --
19 the four they select, they begin PPA negotiations.

20 COMMISSIONER YAMANE: Okay. So you -- so
21 you need to complete the interconnection first, and
22 then that cost gets added to the PPA maybe. And
23 then that's part of the negotiated with Hawaiian
24 Electric.

25 MR. WESCOATT: Correct. The

1 interconnection study needs to be completed. So
2 that -- that's to tell us how Hawaiian -- how do we
3 tie into the grid, what equipment is necessary,
4 making sure the equipment is responsive, you know,
5 as to the grid requirements. Then that goes into a
6 list of equipment and a list of costs. And so then
7 we know the final -- you know, what those final
8 costs are. And that gets put into the power
9 purchase agreement before we sign.

10 COMMISSIONER YAMANE: And then how long --
11 so can -- like, the five years, can you kind of give
12 me, like, the process -- interconnection, PPA
13 negotiations, PUC approval? Like, how -- how do you
14 come up with the five years? Is that enough? Is
15 that --

16 MR. WESCOATT: Sure.

17 COMMISSIONER YAMANE: -- too long --

18 MR. WESCOATT: Sure. I -- I think it's
19 enough. I think -- so I would say insist -- that
20 everything goes well. We complete the
21 interconnection study. We sign the power purchase
22 agreement in the next six months.

23 COMMISSIONER YAMANE: Okay.

24 MR. WESCOATT: Then we have Commission
25 approval, which if everything goes well, six months

1 for Commission approval. We proceed -- you know,
2 continue with the engineering; condition use permit;
3 grading and building permits; procuring equipment,
4 which now, even though the prices have come back
5 down, some of the lead times for transformers are
6 over 24 months. So we have to order some of that.

7 So again, if everything goes well, I think
8 we will be able to complete in -- in about four
9 years, maybe a little longer. But I want it to be
10 -- we want -- obviously, we want to leave some
11 buffering here so we don't have to come back again
12 if -- if we run over by a month.

13 So I'm -- I'm hoping -- I'm -- I'm sort of
14 giving it an over/under on four years, a little more
15 than four years. But that's why we thought five
16 years was a reasonable amount of time to request.

17 COMMISSIONER YAMANE: Thank you. No more
18 questions, Mr. Chair.

19 CHAIRMAN GIOVANNI: Thank you.

20 Commissioners?

21 Commissioner U'u.

22 COMMISSIONER U'U: Good morning. By the
23 way, I like your project. I like how you're
24 implementing solar with -- with ag.

25 And it leads me to the question: How hard

1 is -- how hard is -- how much -- I should say: How
2 much acreage you're looking at utilizing to actually
3 farm? And -- and how hard is it to find the people
4 to do it with the reduction?

5 MR. WESCOATT: So that's a good question.
6 The first part is easy. We're looking to farm all
7 -- all of the acres, except areas where -- should be
8 -- you know, for safety reasons we shouldn't be
9 farming. So the high -- the battery system is very
10 high voltage, the substations. But we're looking to
11 farm most of the rest of the area.

12 Some areas we have irrigation. Some areas
13 we don't. Some areas are pretty steep. So that's
14 probably going to do ranching in those areas. A lot
15 of it is flat with irrigation.

16 So the -- the -- to answer the first
17 question, we're hoping to farm almost all of it.

18 To answer the second question, it is still
19 ongoing discussions. We had -- you know, we got our
20 first farmer signed up. We're looking at another
21 farmer. Mamaki tea is -- grows really well under
22 the panels. So we're talking with the farmer about
23 Mamaki tea.

24 And I think it's going to be -- it's going
25 to take some time to -- to get the project -- you

1 know, to get the project all leased out to farmers.

2 COMMISSIONER U'U: And second question:

3 The changes from COVID with the cost increase in
4 comparative to was -- what it is now, the cost, what
5 makes it feasible where you can move forward with
6 this project? Because cost of materials on the
7 construction site is still pretty insane. So what's
8 the -- how does this project become feasible after
9 the cost increase?

10 MR. WESCOATT: That's a good question.

11 Some of the equipment that we needed have come way
12 down in price. So the batteries -- that's a -- that
13 was almost half the cost of the equipment. That was
14 tripled in price, and now it's come way back down to
15 where it was before.

16 So same thing for a lot of the steel. A
17 lot of the steel was just gone through the roof for
18 the racking, you know, that goes under the panels.
19 That's come way down.

20 So a lot of those costs have come down.
21 And -- and during the supply chain crisis, they were
22 going up so fast we couldn't even get a bid. They
23 wouldn't even lock in a bid. They said ask us next
24 week because it's going to cost more.

25 So now that has stabilized. So the

1 market's stabilized for equipment. Banks are
2 willing to finance. So all of those factors are
3 good.

4 Also, we increased the price in our PPA
5 because some costs, they have not come down. So the
6 price we bid before, the problem was we were locked
7 down here, and we had to go in with a higher bid to
8 cover the -- just the inflation generally.

9 COMMISSIONER U'U: Thank you.

10 MR. WESCOATT: Mm-hmm.

11 CHAIRMAN GIOVANNI: Anybody else?

12 Commissioner Lee?

13 COMMISSIONER LEE: Thank you.

14 Mr. Wescoatt, I -- the -- my question will
15 prove that I don't remember what happened three
16 years ago. But what is your business plan as far as
17 leasing the land to farmers? Is it market rate?
18 Below market? You know, can you give us more info
19 on that?

20 MR. WESCOATT: Sure. Also, I just
21 realized that reading glasses were one difference
22 from three years ago. I didn't have these.

23 The difference -- Wren Wescoatt, Mahi
24 Solar.

25 The -- remind me the question.

1 MR. SAKUMOTO: Commissioner Lee, I'm
2 sorry. Would you repeat your question?

3 COMMISSIONER LEE: Sure. And I know you
4 answered this three years ago. So I'm sure you have
5 some idea. But what is your business plan for the
6 project as far as leasing the land to farmers? Is
7 it, you know, at market rate? Or do you have some
8 other strategy?

9 Thank you.

10 MR. WESCOATT: Thanks for the question.
11 Sorry I spaced on it.

12 The -- we are planning to sublease land to
13 the farmers at \$1 per acre per year, so well below
14 market rate. And then we'll also provide assistance
15 with setting up some irrigation with some equipment,
16 other things.

17 COMMISSIONER LEE: Thank you.

18 COMMISSIONER CARR SMITH: Chair?

19 CHAIRMAN GIOVANNI: Ms. Carr Smith?

20 COMMISSIONER CARR SMITH: Thank you.

21 Yeah, I, too, like my fellow Commissioner,
22 who was curious about how, if it didn't pencil out
23 before and now you've added this whole component of
24 agriculture, how that works. I -- I think you
25 addressed that.

1 But I'm curious about liability. How do
2 you deal with liability of your solar farm with
3 farmers working around your equipment all the time?

4 I also wondered: Are your panels
5 rotating, or whatever the proper term is?

6 MR. WESCOATT: Yes. Wren Wescoatt with
7 Mahi Solar.

8 We are -- we have several steps included
9 in the application and sublease process for farmers.
10 One is a training program so that we educate farmers
11 and ranchers about the solar equipment, how it
12 moves, what not to touch, and safety protocols.

13 So this is similar to anything we do with
14 subcontractors that work in the solar field -- we --
15 in the solar area. We go through a training with
16 them before they come onsite.

17 The sites are fenced, right, so that not
18 just anyone can walk in. So we have strict safety
19 protocols.

20 We're also -- you know, I think there will
21 still be some -- so, you know, the -- we're still
22 working out the exact sort of insurance requirements
23 and so making sure we understand the liability.
24 Yeah.

25 COMMISSIONER CARR SMITH: Okay. But this

1 was not part of your original application for the
2 special permit, correct? Or it was --

3 MR. WESCOATT: It was. Yeah. All this
4 was --

5 COMMISSIONER CARR SMITH: Oh, okay --

6 MR. WESCOATT: -- included. Yeah. We're
7 just able to provide now a little bit more detail as
8 we've done some research and -- and know a little
9 bit more.

10 COMMISSIONER CARR SMITH: Understood.
11 Thank you.

12 CHAIRMAN GIOVANNI: Commissioners?
13 (No audible response).

14 CHAIRMAN GIOVANNI: I have a few questions
15 for you. (Inaudible) for the record.

16 So the -- in Stage 3 of the HECO RFP, they
17 have a targeted general commercial operation date
18 for all proposals. Do you recall what that was?

19 MR. WESCOATT: I do. The targeted
20 guaranteed commercial operations date was December
21 1st, 2027.

22 CHAIRMAN GIOVANNI: So now you're looking
23 and thinking about 2028 or 2029. So what's the
24 consequence for that?

25 MR. WESCOATT: We would have to negotiate

1 that in the PPA. So those are still -- that's --
2 you know, we're still -- that's exactly what we're
3 talking about, is if there's a delay cost for some
4 reason. So that's still being negotiated with the
5 utility.

6 CHAIRMAN GIOVANNI: So you're -- so you're
7 basically looking to negotiate an exemption to the
8 term of the award from 2027 to some later date.

9 MR. WESCOATT: Based on certain factors.
10 So I think we'd be looking at if -- if -- if there
11 is, you know, some sort of delay that's, you know,
12 not the responsibility of our company, we should be
13 able to get an extension.

14 CHAIRMAN GIOVANNI: Thank you.

15 An absolute eligibility requirement of
16 that Stage 3 RFP was a demonstration of absolute
17 site control. So without going through all the
18 particulars of the leases and what you bought and
19 what's changed, let me just simply say: Have you
20 absolutely satisfied the HECO team that you have
21 absolute site control for your project?

22 MR. WESCOATT: We have absolutely
23 satisfied the HECO team.

24 CHAIRMAN GIOVANNI: Okay. That -- that's
25 big. So thank you.

1 How are you providing irrigation -- water?
2 And what's the source of that water? And do you
3 have that water secure for the duration of the
4 project for the farmers?

5 MR. WESCOATT: We have a portion of the --
6 we have water available through the Kunia Water
7 Association. The -- one of our -- one of the
8 landowners from whom we are leasing land, Fat Law
9 Farms, they have access to Kunia water, and we are
10 providing -- we are able to access that water for
11 our farmers.

12 We have -- there's some areas that already
13 have the irrigation infrastructure installed. Most
14 of this area was -- you know, has been used for some
15 type of farming. And then some areas, there is no
16 irrigation installed. And that's -- those are the
17 steeper-sloped areas that we're looking at for --
18 for ranching.

19 And then in those cases, the ranchers
20 would truck water up for, you know -- for the
21 livestock as needed.

22 CHAIRMAN GIOVANNI: So do you have any
23 issues of water allocation or uncertainty about
24 providing the water that the farmers need?

25 MR. WESCOATT: No.

1 CHAIRMAN GIOVANNI: So are you using
2 conventional heights above the ground of the panels?
3 Or are they different for agricultural purposes?

4 MR. WESCOATT: We are using conventional
5 heights. The panels are tracking, which really
6 helps with space for moving equipment because --

7 CHAIRMAN GIOVANNI: They articulate?

8 MR. WESCOATT: Yeah, exactly. So the
9 single-axis tracking panels, if you imagine sort of
10 like a long table, the panels will rotate, face the
11 east during the morning. And then they'll rotate so
12 they're sort of flat very slowly, very flat at noon
13 and then turn to tilt toward the west in the
14 afternoon. So that allows for us to adjust the
15 panels as needed if equipment needs to move between
16 the panels.

17 The height -- to answer your question, the
18 height is typical, so a commercial height -- the
19 mid-points between -- usually between four feet and
20 six feet off the ground, that pivot point.

21 The -- however, we are adjusting the
22 spacing in certain areas. For example, the
23 hydroponic troughs that I mentioned, they're about
24 eight feet wide. So we're keeping the panels spaced
25 further apart in those areas. So we're changing the

1 design of the solar field in different areas to
2 accommodate different types of farming.

3 CHAIRMAN GIOVANNI: Okay. Mr. Sakumoto,
4 when you presented the timeline of the power
5 purchase agreement, I noted that -- that you had
6 negotiated a second amendment -- I presume that's
7 with HECO -- and then went to the PUC for approval;
8 is that correct?

9 MR. SAKUMOTO: The -- Randall Sakumoto.
10 I'm sorry, Chair. Are you referring to
11 the initial power purchase agreement?

12 CHAIRMAN GIOVANNI: Yeah. The initial --
13 it says it was declined. I'm trying to figure out
14 who declined it. Was it HECO, or was it PUC?

15 MR. SAKUMOTO: The -- as far as I
16 understand, the -- I -- I do not represent Mahi
17 Solar in front of the Public Utilities Commission.
18 However, my understanding is that Mahi Solar had the
19 right to declare it -- to terminate the PPA. They
20 notified HECO of that fact. HECO agreed and
21 acknowledged Mahi Solar's right to do that. And
22 then HECO then informed the Public Utilities
23 Commission that it was essentially a mutual decision
24 to terminate that initial power purchase agreement.

25 CHAIRMAN GIOVANNI: That's a little

1 different story than what's represented on your
2 chart. What it says here is that the PUC declined a
3 second amendment. That -- and I presume that that
4 second amendment was agreed to with HECO, or it
5 never would have been presented to the PUC; is that
6 correct, Mr. Wescoatt?

7 MR. WESCOATT: Yes. Wren Wescoatt.

8 Yes. So first -- so the power purchase
9 agreement was initially approved by the PUC. Then
10 we sought an amendment to increase the price.

11 CHAIRMAN GIOVANNI: Correct.

12 MR. WESCOATT: That was declined by the
13 PUC. And then we declared -- so the -- the power
14 purchase agreement is still good. They just -- they
15 -- they negged our amendment. And so we declared
16 the PPA null and void.

17 CHAIRMAN GIOVANNI: So the PUC did not
18 approve the price increase.

19 MR. WESCOATT: Exactly.

20 CHAIRMAN GIOVANNI: So then you decided to
21 exercise your right to void the contract. And at
22 the time that the PUC declined to remove this
23 amendment for increased pricing, did they also
24 potentially steer you to the next impediment? Or
25 was that something you did on your own?

1 MR. WESCOATT: That is correct. The PUC
2 said we decline your request for a price increase
3 and recommend, instead, that you apply to the next
4 --

5 CHAIRMAN GIOVANNI: Okay. That makes
6 sense. This all adds up now.

7 So then you did apply to Stage 3, and you
8 were awarded. And now you're proceeding. Okay.

9 So for the interconnection to the 138,
10 which I presume is in the -- nearby or run through
11 the property, are you -- is -- are you going to
12 interconnect with an existing substation, or is --
13 is that part of what you're looking at?

14 MR. WESCOATT: Part of the project
15 includes a Hawaiian Electric switching station.

16 CHAIRMAN GIOVANNI: A new one.

17 MR. WESCOATT: Correct. A new Hawaiian
18 Electric switching station with a double circuit 138
19 kV to tie into the Kahe Waiau power line.

20 CHAIRMAN GIOVANNI: And that's what you're
21 in -- addressing now in your interconnection
22 requirement study?

23 MR. WESCOATT: That's correct.

24 CHAIRMAN GIOVANNI: Okay. Thank you.

25 I want to follow up on Commissioner

1 Yamane's question about what's left that could take
2 the five years. I know you've -- you've mentioned
3 several things, and you've referred to the IRS. But
4 can you kind of like step us through what you
5 foresee in terms of major steps sequentially that
6 might consume these four to five years you're asking
7 for?

8 MR. WESCOATT: Yes, Chair. Hang on one
9 second.

10 Major steps will include executing the
11 power purchase agreement, submitting the Public
12 Utilities Commission approval of the power purchase
13 agreement, the completion of engineering for
14 permitting, submitting the -- receiving the
15 conditional use permit, receiving the grading --
16 grading permit, building permit, and then -- and
17 then we're going to also have to complete a final
18 energy report. And all that will be taken in to --
19 to secure commercial financing for the project. So
20 that -- so that's a major step.

21 Financing is normally what we think of as
22 the start of construction. So then there is about
23 an 18-month -- roughly, 18-month construction period
24 and then a HECO testing phase, which is now about
25 five months. So that includes, you know, parallel

1 -- we -- we will be testing the substation. We'll
2 be able to receive back feed power once that's
3 accepted. And then we will be able to commission
4 our solar equipment and the batteries and then
5 finally reach commercial operations.

6 And then also within that time, I did
7 mention the procurement. So that -- hopefully, that
8 procurement, you know -- well, we want to start that
9 soon so that doesn't delay things. But the
10 procurement's also in there as well.

11 CHAIRMAN GIOVANNI: So I'm particularly
12 interested in the procurement piece, so I'm glad you
13 brought that up. So when do you lock in the pricing
14 for all the steel, the components, and the batteries
15 and all of that? How -- how far from now?

16 MR. SAKUMOTO: We should be able to lock
17 all that in, in the next six months. We're
18 particularly concerned about transformers and
19 breakers. Those, as I mentioned, have about a two-
20 year-plus lead time. So those we want to order as
21 soon as possible both to make sure the equipment
22 arrives in time for construction and to lock in the
23 pricing.

24 Panels, we have a -- we -- we already have
25 -- for solar panels, we have a sort of frame

1 agreement, I guess it's called, with a major
2 manufacturer. So we have the -- that pricing
3 secured. We're buying -- our -- the company is
4 buying a large amount to cover many projects of
5 which Mahi is just one. So we have the frame
6 agreement for panels.

7 We also would like to, hopefully, secure
8 our contractor. The contractor usually purchases
9 racking and then some other electrical equipment.
10 So that's another point at which we will lock in
11 pricing. That is probably -- that's probably 6 --
12 in the 6- to 12-month time frame. We'd want to
13 secure an EPC contractor.

14 CHAIRMAN GIOVANNI: And with the BESS?

15 MR. WESCOATT: The BESS we will order
16 within -- make our first order within six months.
17 So that would lock in the pricing there.

18 CHAIRMAN GIOVANNI: So if I go back to --
19 I forget the date that we gave approval. Was it
20 2021?

21 MR. WESCOATT: (Nods head).

22 CHAIRMAN GIOVANNI: We were looking at the
23 same scenario, and the pricing went nuts. And the
24 project fell apart.

25 So do you perceive that risk to be --

1 there's always a risk. I understand that. But do
2 you perceive that risk to be essentially equivalent
3 to what it was when you were before us asking for
4 this project to be approved the first time?

5 MR. WESCOATT: I think -- understanding
6 that you can't predict everything, I believe,
7 looking back now, that period with the supply chain
8 crisis was certainly unprecedented in the market,
9 not to say that something crazy like a global
10 pandemic might not happen again. But I don't
11 believe -- I believe the risk now of that
12 uncertainty in pricing is much lower.

13 CHAIRMAN GIOVANNI: So if some new
14 president puts 20 percent tariffs on everything, you
15 feel confident you could navigate through that at
16 this power purchase agreement?

17 MR. WESCOATT: That is always a concern,
18 but I believe that we are doing what we can to
19 manage that risk.

20 CHAIRMAN GIOVANNI: I understand. That's
21 a hypothetical.

22 In general -- and I don't need to know
23 specific numbers, but your -- how much did you have
24 to increase your pricing Stage 3 versus Stage 2 for
25 this project?

1 MR. WESCOATT: The price we proposed in
2 Stage 2 -- I'm going to have to double-check the
3 price that we proposed in Stage 2. It's escaping my
4 mind right now. But we did increase the price --
5 let's see.

6 CHAIRMAN GIOVANNI: I don't need
7 absolutes. But --

8 MR. WESCOATT: Yeah.

9 CHAIRMAN GIOVANNI: -- was it -- was it --

10 MR. WESCOATT: Yeah. It was in the low
11 100s, so per megawatt hour. So I think it was
12 somewhere in the 105 to 110 range -- again, I -- I'm
13 -- somewhere in that range. And the current price
14 is 175. So --

15 CHAIRMAN GIOVANNI: So --

16 MR. WESCOATT: -- the price increased
17 significantly.

18 CHAIRMAN GIOVANNI: Yeah. So -- so it
19 sounds like 60 percent more.

20 Okay. Thank you. I don't have any other
21 questions.

22 Commissioners?

23 (No audible response).

24 CHAIRMAN GIOVANNI: Thank you.

25 We'll take a break now. And it's 10:00

1 o'clock. And we'll come back at 10:10.

2 We're under recess.

3 (WHEREUPON, a recess was taken.)

4 CHAIRMAN GIOVANNI: Back on the record, in
5 session.

6 So thank you for presentation. Just stand
7 by. We may have more questions later.

8 And I'll proceed with County's comments on
9 this proposal.

10 MR. DUBIEL: All right. Thank you, Chair.
11 Good morning again. John Dubiel, Deputy Corporation
12 Counsel for the City.

13 The City, you know, supports this project
14 and thinks it's overall a good project. We propose
15 -- when they initially applied to modify Condition 4
16 to extend it by another three years after the PPA
17 agreement, you know, our big concern was that we
18 don't want this to be indefinite. You know, they
19 may have to renegotiate another PPA. We just didn't
20 know.

21 And we understood that there was about a,
22 you know, three-year construction time, but there
23 may be another year of the -- you know, to negotiate
24 the PPA agreement.

25 And we agree -- we agreed to five just to

1 give them some extra lead time so they're not before
2 this Commission again in three and a half or four
3 years trying to get approval again and you having
4 the same questions of why is this taking so long
5 and, you know, wasting your time.

6 But I think that five years is the right
7 amount of time, and I think that's about it. So
8 hopefully, this can be finished. And you know, we
9 recommend that the Commission approve the amendment
10 to Condition 4 to five years after the date of the
11 Commission's order.

12 Thank you.

13 CHAIRMAN GIOVANNI: Thank you.

14 Mr. Sakumoto, any questions for the
15 County?

16 MR. SAKUMOTO: Randall Sakumoto. No
17 questions, Chair.

18 CHAIRMAN GIOVANNI: OPSD, any questions
19 for the County?

20 MS. KATO: Alison Kato. No questions.

21 CHAIRMAN GIOVANNI: Thank you.

22 Commissioners?

23 Commissioner Lee.

24 COMMISSIONER LEE: Thank you, Chair.

25 For the County, was the five years the

1 staff's recommendation from DPP?

2 MR. DUBIEL: Yes, it was.

3 COMMISSIONER LEE: Okay. Thank you.

4 Thank you, Chair.

5 CHAIRMAN GIOVANNI: Commissioners,
6 anything further?

7 (No audible response).

8 CHAIRMAN GIOVANNI: Thank you.

9 OPSD?

10 MS. KATO: Alison Kato, Deputy Attorney
11 General for OPSD.

12 OPSD supports -- continues to support this
13 project and approval of Petitioner's request for the
14 extension. The original deadline states that the
15 LUC may grant an extension due to unforeseen
16 circumstances beyond the control of Petitioner. And
17 as Petitioner has described in detail, there were
18 unforeseen circumstances that led to this delay.

19 We understand re-negotiation process is
20 currently under way and will take some time to
21 complete. So the proposed extension of five years
22 from the day of the (inaudible) appears reasonable,
23 particularly as Petitioner appears to be actively
24 working towards progress on this project.

25 And the changes described by Petitioner to

1 the project appear minor, and the reasons OPSD
2 originally supported the special permit remain the
3 same as they were in 2021. It's temporary and
4 beneficial use that will contribute to the State's
5 clean energy goals. And the petitioner is also
6 making active efforts to establish agrivoltaics on
7 the property, which is of interest to the State,
8 given -- in dealing with competing interests and
9 limited resources.

10 And I just wanted to note that DOT and DOA
11 also provided written comments on the application to
12 DPP, and neither had any objections to the
13 extension.

14 Additionally, OPSD reached out to the
15 Hawaii State Energy Office, and they noted that they
16 have no concerns and -- with the extension request,
17 and they continue to be an (inaudible) support with
18 this project.

19 No other comments. Thank you.

20 CHAIRMAN GIOVANNI: Thank you, Ms. Kato.

21 Mr. Sakumoto, any other question?

22 MR. SAKUMOTO: Randall Sakumoto. No
23 questions, Chair. Thank you.

24 CHAIRMAN GIOVANNI: County, any questions?

25 MR. DUBIEL: John Dubiel. No questions.

1 CHAIRMAN GIOVANNI: Thank you.

2 Commissioners, any questions for OPSD?

3 (No audible response).

4 CHAIRMAN GIOVANNI: Thank you, Ms. Kato.

5 At this time, we'll now give a second
6 opportunity for public testimony, if any.

7 Ms. Kwan, is there any members of the
8 public indicated they wish to provide testimony on
9 this matter?

10 MS. KWAN: Seeing none, Chair.

11 CHAIRMAN GIOVANNI: Thank you.

12 So at this time we'll take some closing
13 arguments, if any, from Petitioner.

14 MR. SAKUMOTO: Randall Sakumoto. Thank
15 you, Chair. I just have a short statement to make.

16 Mahi Solar is extremely grateful that this
17 Commission recognized the importance of this project
18 and gave its approval in 2021. And in spite of all
19 the daunting challenge that direct it to end this
20 project before it could even get started, Mahi Solar
21 continues to believe in the merits of the project
22 and continues to invest time, energy, and money in
23 securing land control and engaging the Hawaii
24 Agricultural Research Center to help identify those
25 crops that could be successfully grown on this

1 property.

2 On top of that, they went through the RFP
3 process a second time. They are going through the
4 PPA process a second time. Of course, they've come
5 to the Land Use Commission a second time. They have
6 to go back to the Public Utilities Commission a
7 second time.

8 They need to go back and get another
9 conditional use permit. And as Mr. Wescoatt
10 explained, they still need to get financing and all
11 the ministerial permits like building permits.

12 It's -- it's a long road to go down, but
13 they remain committed to the project and to making
14 it a reality. And you know, we respectfully request
15 that the Commission approve our requested five-year
16 time extension.

17 Thank you.

18 CHAIRMAN GIOVANNI: Thank you.

19 County, any comment?

20 MR. DUBIEL: John Dubiel. No comment.

21 CHAIRMAN GIOVANNI: OPSD?

22 MS. KATO: Alison Kato. No comments.

23 CHAIRMAN GIOVANNI: Commissioners?

24 (No audible response).

25 CHAIRMAN GIOVANNI: I only have one

1 comment, and I'll say it now instead of
2 deliberations. But it -- you know, when you were
3 before us in 2021, there was absolute confidence you
4 could do all of those things that needed to be done
5 in three years. And I suspect that you're going to
6 try and do them in three years or less this time.
7 And it's really -- it -- it looks like it went from
8 three to five as a result of what was before the
9 County because they wanted just to put in that extra
10 time.

11 If I'm misrepresenting that, let me know.
12 But you wanted -- he -- he didn't want to come --
13 you're -- I presume you, hopefully, can do it in
14 three. But the five should cover it, and that's why
15 the -- you wanted to add more time?

16 MR. DUBIEL: That's -- John Dubiel.
17 That's exactly right, Chair, you know. The hope is
18 they can get this done in three. But we didn't --
19 you know, we didn't want there to be this open-ended
20 thing with the PPA agreement because we kind of
21 assumed it was going to be about three years after
22 the PPA agreement is finalized.

23 And you know, we did not want to leave
24 that open-ended because if -- let's say that PPA
25 agreement fails again, you know, they would never

1 have to come back before this Commission if there
2 was this open-ended kind of when it gets finalized.

3 And that was our big concern. So to both
4 alleviate their concerns of a PPA agreement and
5 alleviate our concerns of this perpetual open-
6 endedness, we -- you know, we recommended five years
7 instead.

8 CHAIRMAN GIOVANNI: Okay. Fair enough.

9 I want to revisit this IRS, Wren -- Mr. --
10 Mr. Wescoatt, if you don't mind, because that seems
11 like it -- it's front and center what's going on
12 right now and also could either drive schedule or
13 cost of the project.

14 Can you further elaborate what your
15 perspective is on the status and the probability of
16 bringing that to close in some fashion that will not
17 negatively impact this project in some significant
18 way?

19 MR. WESCOATT: Wren Wescoatt, Mahi Solar.

20 I am confident that the IRS is going to
21 conclude in the next few months. So far, the
22 facility study portion is nearly complete. That
23 seems fine. That's for the equipment that's going
24 to be built.

25 The system impact study is the electrical

1 portion. How does the project interact with the
2 grid? There has been a lot more detail, as -- as,
3 Chair, as you know, they're pursuing these grid-
4 forming inverters, which are, you know, pretty
5 cutting-edge stuff.

6 So it -- it may conclude in the next month
7 or two. But I want -- you know, it may take another
8 -- it -- it may take into January or February. So
9 far, we haven't uncovered any problems. So they're
10 still proceeding.

11 The power purchase agreement, previously,
12 those two -- well, when we came before the
13 Commission in '21, that was all done. We were --
14 the PPA was signed. Previously, we could sign the
15 PPA before the IRS was complete. Now the -- the new
16 process is -- or the old new process is now the IRS
17 has to be completed before. Then the PPA will wrap
18 up everything so the Commission can get the whole
19 package at one time.

20 So because the IRS has to be completed and
21 then we have to complete the PPA, that's -- you
22 know, that's why I -- I'm sort of hedging my bets a
23 little bit and thinking it's going to take a few
24 more months to get the PPA executed.

25 CHAIRMAN GIOVANNI: So my takeaway from

1 what you just said is that the -- the technical
2 issue is not the substation design and equipment
3 that goes in the substation. It's the grid-forming
4 inverters --

5 MR. WESCOATT: That is the most --

6 CHAIRMAN GIOVANNI: -- their specification
7 that's still uncertain.

8 MR. WESCOATT: Correct. That is the most
9 -- that is the most -- that is the most
10 sophisticated portion of the IRS right now.

11 But to -- to be clear, no problems have
12 come up. It's just the process of getting it vetted
13 with the various consultants.

14 CHAIRMAN GIOVANNI: And you don't perceive
15 a financial issue with that? Or you do?

16 MR. WESCOATT: I don't believe so.
17 Recently, after the interconnection studies have
18 been completed, in some cases, we get a big bill.
19 Like, the utility says this is going to cost you an
20 extra \$3 million. I don't -- we don't seem to be
21 talking about those kind of concerns now for Mahi
22 Solar. So I'm not -- the -- the -- those issues
23 haven't come up, so I'm not concerned about the cost
24 or overly concerned about the timing dragging on
25 much -- much beyond the next few months.

1 CHAIRMAN GIOVANNI: Okay. Very good.
2 Commissioner Lee?

3 COMMISSIONER LEE: Mr. Wescoatt, does your
4 project intend on seeking IRS tax credits using the
5 Inflation Reduction Act?

6 MR. WESCOATT: Yes, we do. That's --
7 that's planned into the model.

8 COMMISSIONER LEE: Thank you.
9 Thank you, Chair.

10 CHAIRMAN GIOVANNI: Thank you.
11 County, do you have any closing argument
12 or statement beyond what you've already just said?

13 MR. DUBIEL: John Dubiel. No additional
14 closing. Thank you.

15 CHAIRMAN GIOVANNI: Any additional
16 closing, OPSD?

17 MS. KATO: Alison Kato. No.

18 CHAIRMAN GIOVANNI: Thank you.

19 Commissioners, Chair will entertain a
20 motion regarding how we should proceed this as a
21 matter. We are officially in deliberations.

22 What is -- Commissioners, what is your
23 pleasure?

24 Commissioner Lee?

25 COMMISSIONER LEE: Chair, I move to

1 approve an amendment to Condition 4 of the SUP in
2 accordance with the Honolulu County Planning
3 Commission's D&O, decision and order, to extend the
4 -- to extend the time for the project for five years
5 from the date of the Land Use Commission's decision
6 and order.

7 CHAIRMAN GIOVANNI: Thank you.

8 Do I have a second to that motion?

9 COMMISSIONER U'U: Second.

10 CHAIRMAN GIOVANNI: Commissioner U'u
11 seconds the motion. We're open for discussion.

12 Can you speak to your motion?

13 COMMISSIONER LEE: Thank you, Chair.

14 Yeah. These kind of big projects are very
15 difficult. And so I think we should all understand
16 that with the changing conditions and the -- the
17 economic environment. 120 megawatts with a 480-
18 megawatt BESS, I mean, that's -- that's almost
19 double what the Island of Kauai would use on a daily
20 basis. So that just gives you some idea of the
21 scope of this project.

22 And these things are not easy to do. And
23 I -- I commend the petitioner for trying to work
24 with farmers and agriculture and trying to mitigate
25 some of the concerns of the community.

1 Thank you.

2 CHAIRMAN GIOVANNI: Thank you.

3 Commissioner U'u, you want to speak to
4 your second?

5 COMMISSIONER U'U: And exactly what was
6 mentioned prior. I -- I wish you guys luck,
7 success, because if you win, we win. So
8 (inaudible).

9 CHAIRMAN GIOVANNI: Thank you.

10 Commissioners, any further comment?

11 (No audible response).

12 CHAIRMAN GIOVANNI: So I just -- I've just
13 got one. I -- I -- I also support the project and
14 your efforts. I know it's -- it's very difficult,
15 especially in retrospect what's happened in the last
16 few years. I'm hopeful you don't run into
17 uncertainty in the next few years.

18 But under -- no matter what happens, I'd
19 like to remind everybody this is agricultural land.
20 And the owners of this land, you now own part of it,
21 and you lease part of it. But if it either
22 collapses and doesn't go forward, or when it does go
23 forward and it's finished 30/35 years from now, it's
24 agricultural land. And that's important that it be
25 restored to that full capability.

1 With that, Mr. Orodenger, would you please
2 do a roll call vote on the motion?

3 MR. ORODENKER: Thank you, Mr. Chair.

4 The motion is to approve an amendment to
5 Condition 4 in accordance with the City and County's
6 decision to extend the time for five years.

7 Commissioner Lee?

8 COMMISSIONER LEE: Aye.

9 MR. ORODENKER: Commissioner U'u?

10 COMMISSIONER U'U: Aye.

11 MR. ORODENKER: Commissioner Yamane?

12 COMMISSIONER YAMANE: Aye.

13 MR. ORODENKER: Commissioner Kamakea-
14 Ohelo?

15 COMMISSIONER KAMAKEA-OHELO: Aye.

16 MR. ORODENKER: Commissioner Kahele?

17 COMMISSIONER KAHELE: Aye.

18 MR. ORODENKER: Commissioner Carr Smith?

19 COMMISSIONER CARR SMITH: Aye.

20 MR. ORODENKER: Chair Giovanni?

21 CHAIRMAN GIOVANNI: Aye.

22 MR. ORODENKER: Thank you, Mr. Chair. The
23 motion passes unanimously.

24 CHAIRMAN GIOVANNI: Very good. Thank you
25 very much, gentleman and ladies.

1 And is there any further business on this
2 matter? I don't see any. So thank you for your
3 time.

4 MR. SAKUMOTO: Thank you, Commissioners.

5 MR. DUBIEL: Thank you, Commissioners.

6 CHAIRMAN GIOVANNI: Yeah. I appreciate
7 your presentations and your preparations.

8 Is there any further business to discuss?
9 Let me open that to Commissioners.

10 (No audible response).

11 CHAIRMAN GIOVANNI: No further business.

12 I declare this meeting adjourned.

13 (WHEREUPON, the meeting concluded.)

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CERTIFICATE

I, Karynn Willman do hereby certify that the proceeding named herein was professionally transcribed on the date set forth in the certificate herein; that I transcribed all testimony adduced and other oral proceedings had in the foregoing matter; and that the foregoing transcript pages constitute a full, true, and correct record of such testimony adduced and oral proceeding had and of the whole thereof.

IN WITNESS HEREOF, I have hereunto set my hand this 21st day of October, 2024.



Karynn Willman