



LAW OFFICE OF
JENNIFER A. LIM LLC



October 8, 2024

VIA ELECTRONIC MAIL:

daniel.e.orođenker@hawaii.gov

Daniel Orođenker, Executive Officer
Land Use Commission
State of Hawaii
Leiopapa A Kamehameha Building
235 South Beretania Street, Suite 406
Honolulu, HI 96813

Re: October 9, 2024, LUC Agenda Item IV, Docket DR24-77,
RK II Partners LLC Petition for Declaratory Order, TMK No. (1) 9-4-002: 001

Dear Executive Officer Orođenker:

This office represents Ho‘ohana Solar 1, LLC (“**Ho‘ohana**”), the developer of the solar farm located on TMK No. (1) 9-4-002: 052 (“**Parcel 52**”), which parcel Ho‘ohana leases from Robinson Kunia Land LLC (“**Robinson**”). Parcel 52, the above-referenced parcel that is the subject of the Petition for Declaratory Order filed by RK II Partners LLC (“**RKII**”), and several other parcels,¹ totaling approximately 503.866 acres of land, were reclassified to the Urban District by the State Land Use Commission (“**LUC**”) under Docket No. A92-683.

Ho‘ohana was served a copy of RKII’s Petition for Declaratory Order (“**Dec Petition**”). Ho‘ohana takes no position on RKII’s request for the LUC’s determination in the Dec Petition. Instead, Ho‘ohana provides the following corrections and clarifications to certain statements found within the Dec Petition as they relate to Ho‘ohana.

RKII states correctly that “Ho‘ohana spent approximately \$1.25 million for the installation of a new waterline for the agricultural park.” Dec Petition at 9. However, to be more specific, Ho‘ohana *completed* the installation of the non-potable waterline in September of last year. The waterline runs underground from Reservoir 225 to Kunia Road, and then southwest along Kunia

¹ The current ownership of the Petition Area, as set forth in the LUC’s *Findings of Fact, Conclusions of Law and Order Granting Motion to Amend the Memorandum of Understanding’s Offsite Infrastructure Date in Condition A.1*, issued October 7, 2024, in Docket A92-683, is as follows: 1) Haseko Royal Kunia, LLC: TMK Nos. (1) 9-4-002: 070, 078, 084, 085 and 086; 2) RK II Partners LLC: TMK No. (1) 9-4-002: 001; 3) Robinson Kunia Land LLC: (1) 9-4-002: 052; and 4) RKES, LLC: (1) 9-4-002: 079. See Finding of Fact (“**FOF**”) # 16.

Road to the boundary of the State Department of Agriculture's ("DOA") agricultural park.

In the Dec Petition RKII did not properly contextualize Ho'ohana's work. RKII describes the work as being "in accordance with Condition 19 of the [LUC's] 1993 Order." Dec Petition at 9. This is not correct. Ho'ohana's installation of the new non-potable waterline located outside of the Petition Area was done pursuant to Condition B.1. of the LUC's *Amended Order Granting Successor Petitioner (As To Parcel 52), Ho'ohana Solar 1, LLC's Motion for Modification and Time Extension*, issued on November 1, 2021 (the "2021 Order").²

In addition to completing the installation, and as required by Condition B.1., Ho'ohana caused Robinson, its lessor and the owner of Parcel 52, to issue a grant of easement in favor of the DOA. The "Grant of Non-Exclusive Waterline Easement" in favor of DOA was recorded in the Bureau of Conveyances on December 14, 2023. Moreover, pursuant to Condition B.1. of the 2021 Order, during the operational term of its solar farm, Ho'ohana will keep the non-potable waterline in operable condition.

This information regarding Ho'ohana's satisfaction of the waterline construction and easement obligations under Condition B.1. of the 2021 Order was reported to the LUC in March of this year and presented at the LUC's meetings on April 3 and 4. The LUC's recent Order in Docket A92-683 (*Findings of Fact, Conclusions of Law and Order Granting Motion to Amend the Memorandum of Understanding's Offsite Infrastructure Date in Condition A.1*, issued October 7, 2024), provides the LUC's findings of fact in this regard.³

Ho'ohana also wishes to clarify RKII's statement that Ho'ohana's work on the non-potable waterline demonstrates "substantial commencement of use of the Petition Area." Dec Petition at

² Condition B.1. of the 2021 Order provides as follows:

Royal Kunia Agricultural Park Non-Potable Water Connection. Prior to the connection of the Solar Project to the grid, Ho'ohana shall, at no cost to the State and concurrent with construction of the solar farm, design and provide an off-site, non-potable waterline from Reservoir 225 to the boundary of the Royal Kunia Agricultural Park (the "non-potable waterline"), using the design and specifications acceptable to the Department of Agriculture that were submitted to the Department of Planning and Permitting by RP2 Ventures, LLC. Prior to providing the non-potable waterline, Ho'ohana shall at its sole cost and expense, cause Robinson Kunia Land LLC to grant any required non-exclusive, perpetual utility easement(s) to the State of Hawai'i for the alignment of the non-potable waterline. Ho'ohana shall provide contracted maintenance on the installed non-potable waterline and maintain the non-potable waterline in an operable condition for the duration of the operation of the solar farm at no cost to the State. The Department of Agriculture shall be solely responsible for obtaining the non-potable water allocation to service the Royal Kunia Agricultural Park. If Ho'ohana is required to perform an environmental impact statement pursuant to Chapter 343, Hawai'i Revised Statutes, then the time period set forth in this condition shall be extended by the number of days that Ho'ohana is delayed as a result.

³ FOF #26 of the LUC's October 7, 2024 Order provides:

"In September of 2023, Ho'ohana's obligation under Condition B.1. to construct the irrigation non-potable water line was completed. Ho'ohana also has an obligation to maintain the water line pursuant to Condition B.1. The grant of easement required under Condition B.1. has been given to the DOA, and the water line is ready for operation once Haseko installs the pump."

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9. First, the waterline is not located within the Petition Area. Second, and more importantly, from Ho‘ohana’s perspective there is no question that there has been substantial commencement of use of the Petition Area. Ho‘ohana has *substantially completed* actual construction of the solar farm within Parcel 52 of the Petition Area.

Earlier this year, Ho‘ohana reported to the LUC that all civil engineering site work and internal accessways were completed, the approximately 157-acre project area was fenced, the substation and HECO switchyard were completed and fenced, all piles and racking systems were installed, approximately 25% of the solar modules were installed, the project’s connection to the high voltage equipment for connection to the 138 kV grid was done, and the equipment for the battery energy storage system was on-site. Since that time, Ho‘ohana has completed construction and installation of all of the solar modules and completed the installation of the battery energy storage system. System commissioning is currently underway.

Enclosed are two photos to illustrate Ho‘ohana’s *substantial completion* of the solar farm on Parcel 52. One photo (Exhibit A) is one of the several photos that Ho‘ohana provided to the LUC in March, showing that the project was substantially completed at that time. The other photo (Exhibit B) shows the status of the project as of October 1, 2024. Ho‘ohana has substantially completed all construction on Parcel 52 within the Petition Area, and in so doing has spent some \$150Million on the component parts of the solar farm and approximately \$50Million on land preparation and construction.

Ho‘ohana also wishes to correct RKII’s statement identifying Ho‘ohana as one of the “current owners of the Petition Area.” Dec Petition at 10. Ho‘ohana does not own any land within the Petition Area and is not a Petition Area landowner. Ho‘ohana leases Parcel 52 from Robinson. *See e.g.*, 2021 Order, FOF 107 (“The fee owner of Parcel 52 is Robinson Kunia Land LLC (“Robinson”) and Ho‘ohana holds a long-term ground lease for Parcel 52 for the purpose of developing a utility scale solar farm.”)

We appreciate this opportunity to provide comments on RKII’s pending Dec Petition.

Sincerely,

LAW OFFICE OF JENNIFER A. LIM, LLLC

By: 
Jennifer A. Lim

cc: client
Enc.



EXHIBIT B

