

Planning Commission  
City & County of Honolulu  
C/o Ms. Gloria Takara  
650 S. King Street, 7th Floor  
Honolulu, HI 96813

Testimony for 2020/SUP-7 (FK) Mahi Solar, LLC

Honorable Members of the Planning Commission,

My name is Juli Burden, and I am the Program Director at the Agrivoltaic Research and Development Center in Mililani. In 2020, Longroad Energy approached the Hawaii Ag Research Center (HARC) to research which crops could be successfully grown under and between solar panels and could be cultivated by local farmers at solar projects throughout Hawaii.

We designed a multi-year project to study exactly which crops could be grown within a utility-scale photovoltaic footprint to optimize both crop production and quality. Longroad Energy has provided funding for our research over the past four years and has also brought in other solar companies to provide the land and additional funding, allowing us to expand our research work.

To date, we have studied over 30 different crops growing under or between solar panels and are comparing their growth rates and water use with those of plants in a control group at the site. We're finding that some plants, like Mamaki, leafy greens such as lettuce, chard, spinach, and most herbs, grow as well or better under the partial shade of the solar panels than in full sun. The shade provided by the panels has improved the sugar content and the overall marketable yield of these specific crops. We have also noticed that the plants under the panels generally require less water. Although we don't have instrumentation to quantify exactly how much, a few studies from the University of Arizona have quantified the reduction in water needs for agrivoltaic systems (Barron-Gafford, 2022).

Several farmers have shown interest in our research and are in discussions with us about expanding our work to demonstration projects on a larger scale. Our mission is to prepare Hawaii's farmers for success in this system and provide them with a guidebook for navigating this new and innovative approach to agriculture in the tropics.

Sincerely,  
Juli Burden



**From:** Tom Berg <[tomberg00@yahoo.com](mailto:tomberg00@yahoo.com)>  
**Sent:** Tuesday, July 9, 2024 7:48 PM  
**To:** Department of Planning and Permitting <[dpp@honolulu.gov](mailto:dpp@honolulu.gov)>  
**Cc:** [ewabond@gmail.com](mailto:ewabond@gmail.com); Kioni Dudley <[drkionidudley@hawaii.rr.com](mailto:drkionidudley@hawaii.rr.com)>; AES Mountain View Solar <[aesmountainviewsolar@aes.com](mailto:aesmountainviewsolar@aes.com)>; Kellen Tanaka <[ktanaka@culturalsurveys.com](mailto:ktanaka@culturalsurveys.com)>; Rep. Sam Kong <[repkong@capitol.hawaii.gov](mailto:repkong@capitol.hawaii.gov)>; Rida Cabanilla <[colcabanilla1224@gmail.com](mailto:colcabanilla1224@gmail.com)>; Rep. Diamond Garcia <[repgarcia@capitol.hawaii.gov](mailto:repgarcia@capitol.hawaii.gov)>; Rep. Elijah Pierick <[reppierick@capitol.hawaii.gov](mailto:reppierick@capitol.hawaii.gov)>; Tulba, Augie <[atulba@honolulu.gov](mailto:atulba@honolulu.gov)>; Tupola, Andria <[atupola@honolulu.gov](mailto:atupola@honolulu.gov)>; [makana.paris@gmail.com](mailto:makana.paris@gmail.com); [mtynanes@hrcc-hawaii.com](mailto:mtynanes@hrcc-hawaii.com); Jason Levy <[jlevy@hawaii.edu](mailto:jlevy@hawaii.edu)>; Rep. David Alcos III <[repalcos@capitol.hawaii.gov](mailto:repalcos@capitol.hawaii.gov)>; [senfevella@capitol.hawaii.gov](mailto:senfevella@capitol.hawaii.gov); Sen. Brenton Awa <[senawa@capitol.hawaii.gov](mailto:senawa@capitol.hawaii.gov)>; Sen. Mike Gabbard <[sengabbard@capitol.hawaii.gov](mailto:sengabbard@capitol.hawaii.gov)>; Kai Markell <[kaim@oha.org](mailto:kaim@oha.org)>; David Shapiro <[volcanicash@gmail.com](mailto:volcanicash@gmail.com)>; [dave@volcanicash.net](mailto:dave@volcanicash.net); [lcataluna@staradvertiser.com](mailto:lcataluna@staradvertiser.com); Mayor Rick Blangiardi <[mayor@honolulu.gov](mailto:mayor@honolulu.gov)>; Weyer, Matthew <[mweyer@honolulu.gov](mailto:mweyer@honolulu.gov)>; Ka Leo Editor-in-Chief <[editor@kaleo.org](mailto:editor@kaleo.org)>; KAHEA: The Hawaiian-Environmental Alliance <[kahea-alliance@hawaii.rr.com](mailto:kahea-alliance@hawaii.rr.com)>; Siddiqi Afsheen A <[afsheen.a.siddiqi@hawaii.gov](mailto:afsheen.a.siddiqi@hawaii.gov)>; Melissa Price <[pricemel@hawaii.edu](mailto:pricemel@hawaii.edu)>; DLNR. CO. PublicDLNR <[dlnr@hawaii.gov](mailto:dlnr@hawaii.gov)>; [David.G.Smith@hawaii.gov](mailto:David.G.Smith@hawaii.gov)  
**Subject:** Testimony 7/10/24: 'EWA DISTRICT – STATE SPECIAL USE PERMIT (SUP) – 2020/SUP-7 (FK) MAHI SOLAR, LLC

CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

TESTIMONY to the PLANNING COMMISSION  
Wednesday July 10, 2024  
1:30PM

<https://www4.honolulu.gov/docushare/dsweb/Get/Document-342142/July%2010%20%202024%20agenda.pdf>

Aloha City and County of Honolulu Planning Commission,

**Please accept this testimony in strong opposition to MAHI SOLAR LLC advancing the project** - for it was an act of God the project was delayed, and thereby to revisit the approval for extension a most reckless breach upon future generations seeking to have relations with their 'aumakua- specifically the 'Ōpe'ape'a, and Pueo.

The 620-acres as to be developed to house a solar farm and 480-megawatt-hour battery energy storage facility as advanced by applicant, MAHI SOLAR LLC., within the Honouliuli Ahupua'a must be denied.

AES Distributed Energy, Inc., another solar project within the Honouliuli Ahupua'a, has already contributed to the loss of habitat for numerous endangered and threatened species within the Ewa Plain in general.

Isolated, each solar and or wind project appears to be innocent

and dressed up as a win-win for the State's Clean Energy Initiative. However, Department of Business, Economic Development and Tourism has to date, failed to provide the public with a comprehensive map depicting what the islands will look like when all the solar and wind farms are up and running.

I can tell you what our landscape will look like- it will become void of many avian species, and in the future this obsession to destroy the 'Āina will be classified by historians as the era of irrevocable wanton disregard for wildlife by elected officials wanting to be popular at the expense of sound judgement.

Don't take my word for it, here are words from a few of Hawaii's legislators "who get it" as written in 2020 and "who gave a damn":

**"Ninety per cent of the natural dry land habitat, sixty-one per cent of the natural mesic habitat,, and forty-two per cent of the natural wetland habitat of Hawaii have been lost to development and other forms of encroachment. Additionally, fifty-eight per cent of Hawaii's perennial streams have been altered. The loss of habitat has been a contributing factor in making Hawaii known as the endangered capital of the world. More than twenty-five per cent of the species on the nation's endangered species list are endemic to Hawaii despite Hawaii having only two tenths of a per cent of the nation's land.**

**The legislature further finds that wind and solar farms consume thousands of acres of land and destroy the natural habitat of gulches, prairies, and hillsides, effectively exterminating many species of plants and animals that live there or rely upon those areas for nutrients or protection."**

My testimony includes you please read HB 1569 (2019), introduced by State Representative Sam Kong, and also, HB 1392 (2019), introduced by State Representative Rida Cabanilla Arakawa- and I'll summarize for you:

The Pueo, listed as endangered on Oahu, has no dedicated refuge, no sanctuary, no protected habitat by way of a wildlife park in existence. From the federally endangered listed seven species of bees, to the extremely rare Crimson Hawaiian Damselfly, to the Hoary Bat ('Ōpe'ape'a), the Oahu General Plan codified in 2021, doesn't allocate one inch toward their proliferation.

I plea to the Planning Commission, to please consider reading my submission as was included in the AES West Oahu SUP application- as I exclaim all my comments therein are applicable to the MAHI SOLAR LLC., SUP:

[https://luc.hawaii.gov/wp-content/uploads/2021/06/Exhibit-17-A-part-1-AES\\_WestOahu\\_SUP\\_revised\\_08.31.2020\\_Part1.pdf](https://luc.hawaii.gov/wp-content/uploads/2021/06/Exhibit-17-A-part-1-AES_WestOahu_SUP_revised_08.31.2020_Part1.pdf)

## 5.2 HRS § 343 Scoping and Public Review

In addition to the general community outreach and agency coordination described above, additional consultation was conducted specifically for the HRS § 343 environmental review process. This effort included consultation with DPP as the approving agency for the EA, pre-assessment scoping and distribution of the Draft EA for public comment, in accordance with the requirements of HRS § 343 and HAR § 11-200.1.

During pre-assessment scoping for the Draft EA, letters inviting comments regarding issues that the EA should address were sent to federal, state and county agencies, as well as elected officials, organizations and interested individuals. Subsequently, a notice regarding availability of the Draft EA for public review and requesting comments was sent to these parties, as well as additional stakeholders identified through the Project planning process. In total, more than 80 agencies, elected officials, organizations, interested individuals and other stakeholders were engaged through the HRS § 343 environmental review process; a detailed list of these stakeholders is included in Section 7 of the EA. Table 4 summarizes the comments received during the 30-day Draft EA review period; copies of the comment letters are contained in Appendix N of the Final EA. These comments were incorporated into the Final EA, as well as this Special Use Permit application.

**Table 4. Summary of Draft EA Comments**

Commenting Party	Summary of Comments
Tom Berg	<ul style="list-style-type: none"> <li>- States it is premature to develop solar project on the property as an extensive survey for Hawaiian hoary bat and pueo has not been conducted</li> <li>- Provides copy of testimony in response to Senate Bill 2755 Relating to Pueo Research</li> <li>- Suggests that support for House Concurrent Resolution 170, which relates to development of a map that defines the most suitable area within Honouliuli Gulch for a dedicated pueo preserve, could provide mitigation for habitat loss</li> <li>- States that grow lights associated with agricultural activities on adjacent properties may be reflected by solar panels and affect migratory species</li> </ul>
State of Hawai'i Department of Accounting and General Services	No comment at this time
Honolulu Fire Department	<ul style="list-style-type: none"> <li>- Summarizes requirements for fire department access roads, water supply to provide fire flow, and fire apparatus access roads; requests submittal of civil drawings to DPP for review and approval</li> </ul>
U.S. Fish and Wildlife Service	<ul style="list-style-type: none"> <li>- Provides federally listed species that may occur or transit through the vicinity of the Project area; states that there is no critical habitat within Project area</li> <li>- Summarizes potential impacts and impact avoidance measures for the Hawaiian hoary bat, Hawaiian waterbirds and Hawaiian seabirds</li> <li>- States that implementation of impact avoidance measures typically allows for determination of no adverse effects</li> </ul>
City and County of Honolulu Police Department	<ul style="list-style-type: none"> <li>- Recommends that the contractor address potential security issues with regards to construction equipment and machinery, as well as the location of the solar modules and battery storage to be kept on site during operations</li> </ul>

Mr. Tom Berg expressed concern for the pueo and ʻōpeʻapeʻa, stating that the Project will “encroach on prime pueo habitat, considered to be graded A+ - ‘a ten’ - when it comes to the degree of pueo habitat in use on this project site.” Mr. Berg expressed concern that the “property in question will not receive the proper protocol to conclude no endangered species inhabit the area.” He recommended that “a thorough and complete protocol is adopted to repeat the inventory exercise for pueo and ʻōpeʻapeʻa over the course of a calendar year would be in order so the Project does not inadvertently contribute to more endangered species habitat loss.” He also recommended consulting with Dr. Melissa Price and Dr. Javier Cotín (The Pueo Project) and Afsheen Siddiqi (DOFAW) regarding pueo survey protocol. In addition, Mr. Berg also expressed his concern for the possible negative aspects of lighting operations at an adjacent parcel which may reflect off of a solar panel into “the flight patterns of migrating birds and the ʻōpeʻapeʻa and pueo in particular need to be addressed.” Consistent with the recommendations provided, both Dr. Melissa Price (Pueo Project researcher) and Afsheen Siddiqi (DOFAW biologist) were consulted and surveys were conducted for pueo following the Pueo Project survey protocol (Price and Cotín, 2018). Focused surveys were not conducted for the Hawaiian hoary bat; however, potentially suitable foraging was noted as part of the general biological survey. Although neither pueo nor Hawaiian hoary bat were observed within the Project area, both could potentially occur and have been previously documented in proximity to the Project area. Recommended avoidance and minimizations measures identified by USFWS and DOFAW, as well as input from Pueo Project researchers, have been incorporated into the Project. With implementation of the avoidance and minimization measures listed in Section 6.2.2, the Project would not be expected to significantly affect either pueo or the Hawaiian hoary bat.

As previously discussed, no historic trails are known to be extant within the Project area. As such, development of the Project area would not be expected to impact traditional Hawaiian trails or access to upland resources.

The solution toward meeting the Clean Energy Initiative, is to provide the means to place solar on every rooftop- empower the consumer- not the developer nor HECO. U.S. Senate candidate Bob McDermott has a YouTube that defines the calling for solar done right- but such video most likely not allowed to be posted here.

**It is imperative the science - the facts, the truth be included in this testimony in opposition to MAHI SOLAR LLC, and therefore I have attached a 20-page document that details the existence of the Pueo within the Honouliuli Ahupuaʻa.**

**Please do include the 20-page document attached with this testimony- - it is a record of the truth on the Pueo that existed on the Ewa Plain and its plight ignored by those in power to save it-**

And to conclude, please consider reading commentary by Native Hawaiian Priest Michael Kumukauoha Lee of which article was published after his death -

## **RIDING THE WING OF THE PUEO**

By Michael Kumukauoha Lee

On Oahu, where the pueo (Hawaiian owl; endemic) is listed as endangered, government officials, even those proclaiming they are environmentalist, fear the pueo- for not once, has any land development project or environmental watch dog ever recognized the pueo as in existence where development was slated.

Could this fear of the pueo be due to the fact the pueo is mobile, and can plop itself down just about anywhere and cause a landowner wanting to build on undeveloped land, give rise to problems that could delay their projects?

What power this one bird seems to possess over most other protected endangered species is fascinating. The monk seal, the sphinx moth, our precious rare plants, they have for the most part, a territory that is somewhat compartmentalized and do not pose a threat by degree, to any development.

Not so for the pueo- it is a plot hopper. The pueo follows the movement and migration patterns of insects and other foodstuffs in concert with the changing seasons and does not put up a mailbox so to speak like other birds saying, "You can always find me here." That's the fear factor.

Why would a landowner wanting to develop hire a consultant to bring forth findings of the true characteristics of the property in its Final Environmental Impact Statement (FEIS) that pueo are indeed, inhabiting the property? It is a fact, that for every inch developed on the Ewa Plain on Oahu, where historical records exhibited the pueo to be most prevalent, not one FEIS reported pueo as occupying the property...what does that tell you? Money has exchanged hands, that's the answer.

Are consultants who perform the exercise to quantify for the presence of the endangered pueo following any rule, or deploying a special protocol to look for the pueo to be on hand to ensure they don't miss that bird in the inventory exercise? The answer is most disturbing and will make your blood boil.

The Environmental Council (a body of fifteen people all appointed by the governor) refused to include the recommended input that I placed before them in their revision of the Environmental Impact Statement (EIS) process recently completed in which to help them not miss and overlook instances of pueo inhabitation. My suggestions were to require the person conducting the inventory be educated in the field of raptors, to survey the property at sunset and sunrise when the pueo is most active, and to actually walk the property in totality instead of being allowed to do a drive through by car.

I also offered the suggestion that the EIS process should include a provision that the person conducting the inventory exercise to repeat the inventory over the changing wet and dry seasons- since the pueo doesn't remain in one location for very long. It rather, moves from place to place to survive. To look for signs of pueo inhabitation for just a couple of hours during business hours, as is the accepted practice, will certainly yield results the landowner seeks.

One could even surmise, the Environmental Council wanted to make certain, the pueo would be not found in any EIS executed, and give developers that green light up-front to transform pueo habitat into a haven for concrete pours.

There is a Hawaiian saying: *Ka leo ka ola na mele o pueo.*  
*The voice of life is the sound of the pueo, its song.*

*Pili ka hanu; hamau ka leo o na pueo.*  
*Suppress the breath is to silence the voice of the pueo.*

In my heart, to see the pueo purged from the landscape with such wanton behavior, to remove its song, squelch its voice and very being- to needlessly silence it, is simply not pono.

This act by government to remove

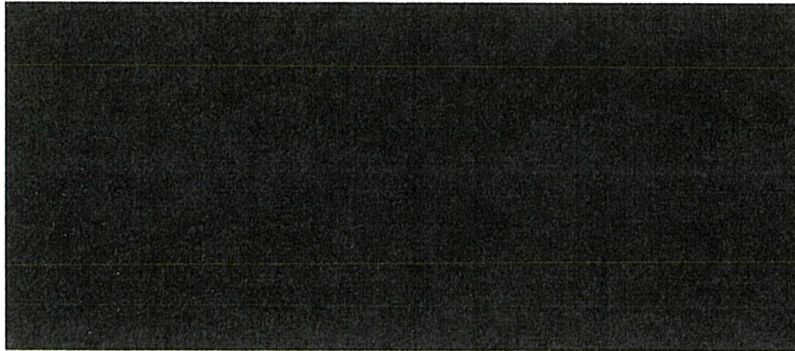
the pueo from our skies takes away  
the ability for the sacred pueo to  
present itself as the spiritual priests  
of the land that ministers to others.

All of God's grand creations in the wild are riding on the wing of the pueo, with their fate depending on the pueo having a protected space where all can acquire refuge.

Because our *Endangered Species Act* is being muzzled by the State of Hawaii in conjunction with developers not to fulfill their legal obligation to our endangered species laws written to protect the voiceless, you now know why the power and presence of the pueo is so feared. On the Ewa Plain, where land is being swallowed up faster than the time it takes for concrete to harden, the pueo needs us all more than ever.

*Michael Kumukauoha Lee is a retired teacher who taught Hawaiian Religious Studies at Damien Memorial School and resides in Ewa Beach. For more about the pueo and the plight of it within the Honouliuli Ahupua'a, the video, "Pueo Chant" can be accessed by going to this link:*

[CHANT FOR PUEO @ UHWO by Michael Kumukauoha Lee](#)



**CHANT FOR PUEO @ UHWO by Michael  
Kumukauoha Lee**

Tom Berg  
91-203 Hanapouli Circle #39U  
Ewa Beach, HI 96706  
808-685-1932  
[tomberg00@yahoo.com](mailto:tomberg00@yahoo.com)

RE: REQUEST FOR ASSISTANCE TO ACCESS RECORDS (U RFA-P 20-19)

PREFACE

Hawaii's Attorney General Ms. Clare Connors opined in 2019 that the University of Hawaii West Oahu Non-Campus Private Development Land (UHWO/herein property) was properly assessed for pueo inhabitation in 2007 when the Final Environmental Impact Statement for the undeveloped state-owned property was executed and the results affirmed no pueo or its habitat was present. Subsequently, findings from recent survey(s) 2017/2018 by Project Pueo re-affirmed conditions have not changed. Therefore, per Connors, the property has been correctly classified as being void of pueo inhabitation and as such, no protective and or preservation measures are required to mitigate for pueo in preparation for the development slated.

*See letter dated February 26, 2019 by Attorney General Clare Connors to State Representatives Rida Cabanilla and Bob McDermott*  
<https://www.flipsnack.com/F6DAEF5BDC9/re-joint-pueo-ltr-to-ag.html>

In contrast, Mr. Michael Kumukauoha Lee had advanced a narrative of the property that contradicted the assessment by Ms. Connors. Ms. Connors formulated her assessment on the information provided to her by Chair of Department of Land and Natural Resources (DLNR), Ms. Suzanne Case. Mr. Lee and I provided hundreds of hours of video and photographic documentation to Ms. Case spanning the period from September 2015 to December 2, 2019, that depicted multiple pairs of pueo active in a courship breeding ecology on the property- especially during the Fall Season. Ms. Case rejected the evidence, stating it carried "no weight, had no merit, and the claim pueo were at UHWO, a baseless claim."

Mr. Lee passed away on August 31, 2019, and provided the following message on my telephone answering machine that I discovered after his passing. His message revolved around the DLNR & Project Pueo not providing the data and specific details to how their Pueo studies (surveys) were conducted that had concluded: "...no Pueo utilize the property."

Video capture of call by Michael Lee August 2019: <https://www.youtube.com/watch?v=Z1d9I8df3As>

**AMEND THIS BILL PLEASE- BY TAKING THE PROPOSED HB2629 (2018) and making that property at UHWO serve and satisfy the intent of SB2755- the sound, prudent, responsible thing to do.**

The following is a brief of a complaint to OIP that involves the last study- Project Pueo, of which researchers are in hiding and refuse to disclose their methodology, protocol and release the data as requested.

Mahalo  
Tom Berg



REQUEST FOR APPEAL WITH OFFICE OF INFORMATION PRACTICES  
on the grounds DLNR did not address all matters of importance that effects  
the very viability and existance of the pueo at UHWO in the  
taxpayer funded Project Pueo exercise that was used as  
the veihicle to justify the extirpation of the species.

The response by DLNR to answer questions regarding survey protocol deployed to the property to assess for pueo inhabitation are as follows:

1. Provide illustration and or map of where observer in survey exercise was stationed on property.

Status: DLNR provided GPS coordinates. This satisfies this segment of the inquiry since Project Pueo did not utilize any maps in their Reports.

Note: GPS coordinates provided in the EXCEL FILE of the Report substantiated the observer(s) not only failed to cover the areas where five nesting sites were documented by Mr. Lee, but also reveal that the observer(s) who were informed where to look for pueo by Mr. Lee, intentionally avoided those sites. This is very disturbing and most alarming- a sign of malice.

Conclusion: After being sent over one hundred videos of where pueo are on the property and provided with maps where to locate them, Project Pueo instead of taking heed, purposly shunned those sites and per the Report, never walked around, near, or through the five nesting sites for any observation exercise per the Report. Pueo feathers, germinating from both adult and fledgling, were often present at the five nesting sites for quantification and left intact by Mr. Lee in situ for the observers to identify and record.

Mr. Lee, on January 1<sup>st</sup> of 2018, performed a Chant to Pueo exactly where the Pueo have been witnessed for years as engaging in courting activities. This was the site where in the early morning hours from 4am to just before 7am, during the Fall Season, one could watch pairs of Pueo chase each other and flap their wings in mid-air as displays of courtship behavior.

Chant to Pueo @ Courting/Mating Site UHWO  
<https://www.youtube.com/watch?v=d9yoxlGeNCA>

The aforementioned video was provided to Project Pueo in January of 2018 – however, per the GPS coordinates given by Project Pueo, it is clear, Project Pueo when on the property in 2018, ensured they avoided that very spot 100% in every and all observation exercises. This too, is another sign of malice as embraced by Project Pueo and its team of researchers that used our tax dollars to advance a false narrative that Project Pueo executed a thorough, extensive, and methodical survey for Pueo inhabitation on the property.... when the truth is, they did not.

DLNR Chair Suzanne Case informed Attorney General Connors in the February 26, 2019 letter, that the property was surveyed for nests as well as for a courting and breeding ecology. Mr. Li states here, that is not accurate and as such, no survey to examine the property for nests and for a courting/breeding ecology actually transpired on the property.

Email from Mr. Li (DLNR) illustrating a conflict in the validity of the Report:

From: Li, Bin C <bin.c.li@hawaii.gov>  
To: Tom Berg <tomberg00@yahoo.com>  
Sent: Thursday, January 9, 2020, 03:13:56 PM HST  
Subject: RE: [EXTERNAL] Re: Your record request re UHWO Pueo project

Aloha Mr. Berg,

The survey protocol was the same for both studies except for the second phase we were looking for signs of breeding such as wing clapping or prey provisioning to then hopefully find nests to monitor.

We never did find a nest or prey provisioning.

We also did some daily activity surveys where we surveyed for longer periods of time to get an indication of Pueo daily activity, **but these surveys did not occur on UHWO lands.**

Hope this info helps. Thank you.

Bin C. Li  
Administrative Proceedings Coordinator  
Department of Land & Natural Resources  
1151 Punchbowl Street, Room 131  
Honolulu, Hawaii 96813  
Tel 808-587-1496, Fax 808-587-0390  
Bin.C.Li@hawaii.gov

Historical Context: In 1996, the State of Hawaii, after receiving an estimated 1,300 acres of fallow farmland to be added to its inventory- acreage that included the UHWO property, ordered a Biological Survey to see what plants and animals were present. This survey was conducted by Mr. Ken Nagata. Nagata stated he found owl pellets and turned them over to DLNR, of whom DLNR had jurisdiction of the entire 1,300 acres- DLNR was the property owner at that time.

FACT: DLNR refused to examine the pellets to determine if they were of pueo or barn owl origin.

This negligence, or rather motive by DLNR to not give the pueo standing and extend its rightful protective measures on the property began in 1996 when Nagata concluded that the property "Would make an excellent bird refuge." Unfortunately, DLNR ignored those findings.

DLNR responded to Nagata's calling to protect that habitat with approving its destruction in the Final Environmental Impact Statement (FEIS) for the property. DLNR signed the FEIS in 2006 checking off a box that reads: No endangered or threatened species use the property and therefore, with no habitat present to serve any species of concern to the State on the property, DLNR approves the property being fully developed.

From the beginning of time, to August of 2017, DLNR never set foot on the property to determine for itself, if endangered plants and animals are on the property. When Nagata turned over the owl pellets to DLNR in 1996 for DLNR to examine - with the purpose to determine if the endangered Pueo were active on the property, DLNR discarded the pellets and dissed any and all potential of the property having worth to the endangered species.

To add injury, DLNR had signed off on the property in 2006 as being classified as "wasteland" in the FEIS- claiming the property in totality, served no purpose for wildlife.

Comment/Summary: When the raw, fallow agricultural land on the property sat idle for over 20-years, it blossomed into a haven for wildlife. Tall grasses and old growth trees lined the gulches and a 150-acre patch of a dense foliage thicket had matured. Nagata quantified over 18 species of birds - including the indigenous Black Crowned Night Heron using this dense foliage on the property where Kaloi Gulch converges with Hunehune Gulch.

**Nagata was prohibited from investigating Pueo nests per his contract**, and as such, when he found the owl pellets, he was elated- ecstatic, and went to the trouble to collect the pellets, bag them, and turn them over to DLNR for study to see if generated from the Pueo. For DLNR to ignore that effort, exhibits a pattern of deceit, fraud, and ill-will- nothing short of acting in bad faith.

This is why the request for where on the property did the survey by Project Pueo transpire is so important- since such question has revealed an answer- the answer being that DLNR refused to examine the Kaloi Gulch/Hunehune Gulch convergence area where DLNR was informed where to go.....and per the OIP complaint, we now know Project Pueo failed to cover the areas where Pueo were historically witnessed via the GPS coordinates provided by Project Pueo.

2. Identify participants permitted on property for survey- what were their credentials and why and or how were these individuals chosen to participate in the survey conducted?

Status: DLNR provided initials of those on the property that participated. Listing of complete names are not necessary. However:

Lacking are listing the credentials of the participants for all survey exercises at UHWO. **I still request an answer to this inquiry.**

Lacking are the explanation of the procedures that allowed pre-selected member(s) of the community to be invited for the study.

**Unanswered:** How were participants from the public chosen for the study and what was the basis for excluding me from the study- with myself having firsthand accounts of where the Pueo are? Such inquiry has gone unabated and **I still request an answer.**

I had obtained thousands of hours of time-lapse photography of Pueo @ UHWO- with an example here: <https://www.youtube.com/watch?v=GiHOev2uh7U>

In addition, I was constantly on the property- for both pre-sunrise and post-sunset periods, and was on the property on the dates Project Pueo claims they were on the property. And from my experience, no one from Project Pueo was actually on the property where the Pueo were - maybe they sat in their car, **for the Report does not disclose if the observer walked the property, or stayed stationary in one spot and I still request an answer.**

Mr. Lee and I had positioned 20-trail cameras around the nesting sites- cameras with wide angle lenses and with motion detectors taking a photo every ten-minutes, 24-hours a day, seven-days a week, for roughly three years. No personnel with Project Pueo were ever recorded as anywhere near the five known nesting sites. With this data, I honestly believe Project Pueo either acted with malice, or negligence, since certainly, the cameras would have captured their presence, and they did not, ever. Rather, the cameras picked up farmers and their tractors in motion besides wildlife.

What we do know, is Project Pueo never visited the five known nesting sites on the property per the GPS data.

Comment/Summary: It appears DLNR does not want to answer the OIP complaint regarding why Project Pueo refused to collaborate with me, and instead, chose to solicit KW who I contend, had no expertise and no firsthand evidence to warrant KW be the chosen one to contribute to the survey. *So why did Project Pueo pick KW and not me to help Project Pueo find Pueo on the property?* **I still request an answer as to why I was not allowed to participate with Project Pueo in the survey exercises.**

3. Explain why the survey/study ceased in April of 2018 for the property and why Project Pueo failed to conduct the courting /breeding ecology aspect for the property during the Fall Season of 2018?

Status: DLNR came to UHWO three times in 2017 during the Fall Season - with no exercise thereof to examine the property for any nests, and or courting and or breeding ecology during that time. **So why did DLNR, having a 100% sighting rate of Pueo on the property in August of 2017, refrain from returning to the property in the Fall of 2018 to conduct the more extensive research? Why was UHWO excluded from the more detailed, in-depth survey? Who made that decision and on what grounds when DLNR had exhibited a 100% sighting rate in August of 2017 to work with for the next phase of the survey during the Fall of 2018?**

On August 18, 2016, a town hall meeting was held on the pueo @ UHWO. In attendance were DLNR and USFWS that were shown evidence of pueo on the property by Mr. Lee. **During the course of the meeting, DLNR and USFWS stated they will not visit the property to observe for pueo unless they get funding to do so.**

Michael Kumukauoha Lee informs DLNR/USFWS pueo at UHWO on 8/18/2016  
<https://www.youtube.com/watch?v=sfW8FG11XiI>

DLNR responds by stating, "We will not send any personnel from DLNR to the property."

USFWS states protocol/ inventory to be deployed needs to be YEAR-ROUND to be accurate- to cover all seasons.

**At 3:42 in video, observation protocol is to be year-round and include ALL SEASONS- yet, Project Pueo failed to adhere to this protocol, why?**

<https://www.youtube.com/watch?v=NR4v7TzkAmQ>

With the aforementioned information, it was expected that DLNR would adhere to a protocol and conduct observation exercises in equal fashion over the changing seasons- and not omit one season over another from its study.

Lacking are the explanation as to why the property was not included in any survey protocol during the Fall Season of 2018 and **I still request an answer.**

Lacking are the explanation as to why DLNR Chair Ms. Suzanne Case made the claim to Attorney General Clare Connors that pueo were not observed as present on the property when per Project Pueo, Project Pueo came to the property twice during the Fall Season in 2017 and on both visits, quantified and confirmed pueo are indeed on the property- a 100% sighting rate was substantiated for the property over the Fall Season- yet, DLNR advanced a falsified, fraudulent narrative, that the property had been void of any sightings as told to the Attorney General.

Lacking are an explanation as to when did funding for Project Pueo- or any Pueo surveys or research efforts come to an end for the island of Oahu? **I still request an answer.**

Fact: Project Pueo came to the property only three times during the Fall Season in 2017- with two in August, and one visit in November. Project Pueo refused to go to UHWO during the Fall months of September and October in 2017, and avoided UHWO in totality for all of 2018 after April.

The schemata/chart below was not included in the Reports. It was through the OIP effort, that DLNR finally disclosed how lopsided and flawed its protocol was:

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S
Site	Date	Pueo Observed Outside Survey?	Pueo Observed During Survey?	Courtship Seen?	Survey Type?	GPS coordinates	Start Time	Start (n)	Stop Time	Stop (n)	Minutes	Observers	Cloud Cover	Rain	Wind	Species	First observation of the day	Detection Start Time
2	UHWO	8/2/17	N	Y	N	Evening 21.35117°N, 158.05527°W	18:00	1080	19:32	1172		92 JC, KW	MC	None	-2	Pueo	Yes	19:34
3	UHWO	9/19/17	N	Y	N	Evening 21.35117°N, 158.05527°W	17:30	1050	19:00	1140		90 JC, KI, JH	PC	None	-3	Pueo	Yes	18:55
4	UHWO	11/6/17	N	N	N	Evening 21.35117°N, 158.05527°W	16:50	1010	18:20	1100		90 JC, KD, SW	Clear	None	-4			
5	UHWO	1/9/18	N	N	N	Evening 21.34739°N, 158.05826°W	16:33	993	18:30	1110		117 SW						
6	UHWO	1/9/18	N	N	N	Evening 21.35118°N, 158.05504°W	16:22	982	18:30	1110		128 KD	Mostly Clou	Light Drizl	3			
7	UHWO	1/12/18	N	N	N	Evening 21.34784°N, 158.05378°W	16:50	1010	18:40	1120		110 AS	Clear	None	-2			
8	UHWO	1/17/18	N	N	N	Evening 21.34784°N, 158.05378°W	6:36	396	7:15	435		39 KD	Partly Clou	None	-3			
9	UHWO	1/20/18	N	N	N	Morning 21.34657°N, 158.05505°W	6:33	395	7:25	445		50 KD	Partly Clou	None	-3			
10	UHWO	1/30/18	N	N	N	Morning 21.34739°N, 158.05826°W	6:35	395	7:15	435		42 KD	Mostly Clou	None	-3			
11	UHWO	2/17/18	N	N	N	Evening 21.34552°N, 158.05822°W	17:59	1079	19:15	1155		70 KD	Partly Clou	None	-3			
12	UHWO	3/2/18	N	N	N	Evening 21.35118°N, 158.05504°W	17:49	1069	19:14	1154		85 KD	Mostly Clou	None	-3			
13	UHWO	3/7/18	N	N	N	Evening 21.35118°N, 158.05504°W	18:01	1081	19:11	1151		70 KD	Partly Clou	None	-5			
14	UHWO	3/10/18	N	N	N	Evening 21.35118°N, 158.05504°W	17:41	1061	19:26	1166		105 KD, LR	Partly Clou	None	-5			
15	UHWO	3/26/18	N	N	N	Evening 21.35118°N, 158.05504°W	17:48	1068	19:16	1156		88 KD	Partly Clou	None	-4			
16	UHWO	4/5/18	N	N	N	Evening 21.34784°N, 158.05378°W	18:03	1083	19:32	1172		89 KD, LR	Partly Clou	None	-4			
17																		

Fact: Pueo rotate its inhabitation sites in accordance with the changing seasons. It was proven by Mr. Lee and myself, that if an accurate and thorough inventory/observation exercise was to transpire for Pueo on the property, it needs to be performed during the Fall Season when Mr. Lee and I had proven that is the season the pueo utilize the property for a courting and breeding ecology.

Mr. Lee and I proved the Pueo are absent on the property after mid-December- with the Pueo taking a hiatus from UHWO for some five-months and return to find a mate in late June, and then engage in courting in August, and then raise a brood through September, October. Beginning in late November, sightings start to become less frequent and that is when activity slows down.

During late December through May months, Mr. Lee and I tracked the Pueo that used to be at UHWO during the Fall Season, moving on to Ho’opili property to the north and east of UHWO- whereby the Pueo would forage up Honouliuli Stream.

Predominately, the Pueo would only come to UHWO during the Winter/Spring season to “raid” the nests of barn owls and my cameras picked that activity up- with the visits being short stints, and most rare. Once fed, the Pueo would leave the property and not hang around during these months. *Why Project Pueo focused 40% of its time in the field on just one of the most unproductive months in the calendar year, January, proves the protocol used was amateurish, and not fully thought out/most incomplete.*

Project Pueo relied upon the January month as the main thrust for the basis of their surveys. And with that protocol, had demonstrated an inferior, flawed study methodology was used to improperly conclude, “No Pueo use the property.”

Had Project Pueo exercised the same effort in the Fall Season as they had done for the month of January, such as visit the property six times in either the August, September, October, November months respectively, the observers would have recorded what I recorded- hundreds of hours of Pueo chasing each other with multiple pairs on the property seen in every direction near the five nesting sites and definitely engaged in a courting /breeding ecology.

Here is one of many examples of Pueo engaged in courting activity- with the chase, wing flaps, and overhead displays/dancing in air- performed during the Fall Season of 2017- **thus, why didn't Project Pueo, after seeing the Pueo in August of 2017, stick it out and remain on property for the complete Fall Season of 2017?** Instead, Project Pueo enacted a cease and desist policy to ensure no further examination of Pueo shall transpire in the Fall Season.

Had Project Pueo observers remained on the property, they would have recorded this- and such event as depicted here, would be the new narrative from DLNR to the Attorney General:

**“What we have here, is proof Pueo are using UHWO as a courting ecology.”**

**\*\*September 16, 2017 /Courting Ecology Exhibit \*\***

<https://www.youtube.com/watch?v=mOP53byydds>

*(I have dozens of videos covering the June through July months as well, but such are examples within the Summer Season, and for purposes here, the scope of subject is to include the Fall Season of 2017 to substantiate DLNR should have executed the more in-depth courting and breeding ecology survey for this property and done so in the Fall Season.)*

Many of the videos listed here contain Pueo flying out of their nesting spots- like the September 9<sup>th</sup> video demonstrates.



The September 14, 2017 video illustrates the destruction of two Pueo nesting sites – whereby UHWO Chancellor Benham after being shown videos of Pueo active in their nests, immediately had ordered the area used by the Pueo to be defoliated in its entirety. Every old growth tree you see in these videos, was eventually cut down by Benham- every blade of grass removed. Truly, a spiteful act.

- August 1, 2017  
<https://www.youtube.com/watch?v=63VGcl6iH5Y>
- August 6, 2017  
<https://www.youtube.com/watch?v=fbC5od6ZnEo>
- August 7, 2017  
<https://www.youtube.com/watch?v=rkvjL4ayYx8>
- August 7, 2017  
<https://www.youtube.com/watch?v=hB5CodSYjlg>
- August 10, 2017  
<https://www.youtube.com/watch?v=OH3iOLrpToA>
- August 18, 2017  
<https://www.youtube.com/watch?v=9fQTWOLsNj0>
- August 20, 2017  
<https://www.youtube.com/watch?v=1jzZJK3hNAA>
- September 5, 2017  
<https://www.youtube.com/watch?v=P2kv6PlckL8>
- September 6, 2017  
<https://www.youtube.com/watch?v=xdJY4Fw9-F4>
- September 9, 2017  
<https://www.youtube.com/watch?v=tod8TxZyVv8>
- September 10, 2017  
<https://www.youtube.com/watch?v=qgoLvJ9zgGk>

- September 14, 2017  
<https://www.youtube.com/watch?v=BDjLE1Jn4zs>
- September 20, 2017  
<https://www.youtube.com/watch?v=ijSJUfj9Fenk>
- September 23, 2017  
<https://www.youtube.com/watch?v=czbGfV2h0Gs>
- September 25, 2017  
<https://www.youtube.com/watch?v=LE3zljhm6zU>
- September 28, 2017  
<https://www.youtube.com/watch?v=J5fjfbZatr8>
- September 30, 2017  
<https://www.youtube.com/watch?v=FPm4pRVFFes>
- October 3, 2017  
<https://www.youtube.com/watch?v=E2qiqMXFi8Q>
- October 4, 2017  
<https://www.youtube.com/watch?v=ghTgAtOEzCQ>
- October 14, 2017  
<https://www.youtube.com/watch?v=SgsYEX6wUhf>
- October 16, 2017  
<https://www.youtube.com/watch?v=8-E1V5-doAs>
- October 17, 2017  
<https://www.youtube.com/watch?v=-JanAsZ1bWY>

Project Pueo, DLNR, USFWS, and UH Manoa were apprised by Mr. Lee and myself to evaluate the property during the Fall Season for a courting and breeding ecology. In response, Project Pueo, DLNR, USFWS, and UH Manoa took on a policy and directive (protocol) to purposely avoid the property during the Fall Season of 2018, and do so in totality.

**I still request an answer** as to why protocol was breached. The very protocol USFWS Ms. Jenny Hoskins had stated that in order for the survey/study to be accurate and be considered a thorough assessment - it would need to involve a protocol that **would include examination year-round on the property**, and this methodology- for the courting /breeding ecology study exercise, was not conducted at UHWO- **why?**

**Project Pueo came to UHWO only three times in total during the Fall Season** – and all in 2017 when no courting and breeding ecology study was undertaken by the researchers.

Fact: Researches stayed in one spot, not investigating the site for any courting or breeding ecology, and or to determine for the presence of nests, per the protocol, per the Reports. The population survey count exercise, was all that was done at UHWO- and it was a 100% confirmation – pueo are there.....yet, Project Pueo sought a policy to NOT ever examine the property for any pueo in the Fall Season beyond the intial 2017 population exercise for the property, period.

Of grave concern, and of legal issue, is that DLNR Chair Suzanne Case relayed falsified information to the Attorney General to sway the true narrative of the property with the egregious statement: “The property was thoroughly examined for pueo- extensive surveys were conducted - and no pueo are on the property- no pueo use the property.” This is patently false, and opens DLNR up for a lawsuit – by its fabricating and concting a falsified narative that no pueo were observed on the property.

Project Pueo, when they were sent scores of evidence by Mr. Lee and I to work with proving that in order to quantify the presence of a courting /breeding ecology at UHWO, the exercise needs to transpire during the Fall Season- **then why didn't it? I still await an answer.**

Micheal Kumukauoha Lee performed a chant on the property January 1, 2018, at the location where pueo were seen for years during the Fall Season; courting, mating, and raising a brood: <https://www.youtube.com/watch?v=d9yoxIGeNCA>

Project Pueo refused to coordinate, correspond, and reciprocate with this data provided to them. Per the Report, no observer was stationed near the known nesting sites as reflected in the GPS coordinates by Project Pueo.

Why did Project Pueo avoid investigating any of the five nesting sites in its Report? **I still request an answer.**



Why did the exercise to determine if a courting and breeding ecology was present or not at UHWO, not transpire at all during the Fall Season when Project Pueo was informed: *“That’s when you can see pairs courting- chasing each other- feeding each other - and roosting/sleeping together- and frequenting the same nesting areas like clockwork each Fall Season flying in and out of the same patches in the tall grass.”* **I still await an answer.**

Of importance to note, is that the following videos from the Fall Season of 2016 were provided to DLNR and USFWS so as to prep them to set protocol for Project Pueo to conduct their survey(s) in the Fall Season for UHWO specifically. Unfortunately, Project Pueo deployed the opposite protocol, and was on the property the least during the Fall Season.

Maps of each sighting, including data as to where the sightings transpired and subsequently recorded, was provide to DLNR- with DLNR refusing to respond and ignoring all the video/time-lapse/photographic evidence in its entirety....and **I still await an answer** as to why did DLNR act with Malice of Aforethought, Institutional Bias, Administrative Prejudice, and Willful Indifference with its flagrant disregard and discriminatory practice to shun the evidence of the endangered Pueo under siege, threatened with encroachment and DLNR violate the State’s Endangered Species Law knowingly and willingly....**why did DLNR dismiss this evidence?**

- August 9, 2016 @ UHWO  
<https://www.youtube.com/watch?v=f3T-VhYEj2c>
- August 15, 2016 @ UHWO  
<https://www.youtube.com/watch?v=8DIYNdl-YI6A>
- August 17, 2016 @ UHWO  
<https://www.youtube.com/watch?v=U4JYSOhFeV0>
- August 20, 2016 @ UHWO  
<https://www.youtube.com/watch?v=JS3GClmESc>
- August 27, 2016 @ UHWO  
<https://www.youtube.com/watch?v=dEqIzG26H24>
- August 28, 2016 @ UHWO  
[https://www.youtube.com/watch?v=vzRWuv\\_0dvA](https://www.youtube.com/watch?v=vzRWuv_0dvA)
- August 30, 2016 @ UHWO  
<https://www.youtube.com/watch?v=XRFYH-OcEaM>
- August 31, 2016 @ UHWO  
<https://www.youtube.com/watch?v=AznT06PmzoA>
- September 19, 2016 @ UHWO  
<https://www.youtube.com/watch?v=4UzUmqU3fYM>
- September 21, 2016 @ UHWO  
<https://www.youtube.com/watch?v=VqxsK6Jpv9Q>
- September 29, 2016 @ UHWO  
[https://www.youtube.com/watch?v=buFCNg\\_SWiU](https://www.youtube.com/watch?v=buFCNg_SWiU)
- October 7, 2016 @ UHWO  
<https://www.youtube.com/watch?v=zRbGdGF6X11>

- October 11, 2016 @ UHWO  
<https://www.youtube.com/watch?v=WsbeL8fR5vA>
- November 2, 2016  
<https://www.youtube.com/watch?v=SxmrXPuWv14>
- December 2, 2016  
<https://www.youtube.com/watch?v=uDtwLzalkKc>
- December 5, 2016 @ UHWO  
<https://www.youtube.com/watch?v=dvOAggnCf4>
- December 7, 2016 @ UHWO  
[https://www.youtube.com/watch?v=3X\\_5MB5nEu8](https://www.youtube.com/watch?v=3X_5MB5nEu8)
- December 8, 2016 @ UHWO  
<https://www.youtube.com/watch?v=vvvEEY4CvE>
- December 9, 2016 @ UHWO  
<https://www.youtube.com/watch?v=KkKphe2eNKc>
- December 12, 2016 @ UHWO  
<https://www.youtube.com/watch?v=VzWNrvHImVx>
- Super Moon December 13, 2016 @ UHWO  
[https://www.youtube.com/watch?v=zVxBZ\\_ws\\_qQ](https://www.youtube.com/watch?v=zVxBZ_ws_qQ)
- December 18, 2016 @ UHWO  
<https://www.youtube.com/watch?v=x4MRAY8VUig>
- Winter Solstice December 21, 2016  
<https://www.youtube.com/watch?v=22GvcOiaJzw>
- Christmas Day December 25, 2016 @ UHWO  
<https://www.youtube.com/watch?v=QfrDx7DVeJA>

Lacking are the dates for funding for the Reports- such as when did the funding start, and when did the funding stop for the endeavor to quantify for a courting/breeding ecology at UHWO – or did such not transpire at UHWO? **I still request an answer** --for DLNR Chair Ms. Suzanne Case stated to the Attorney General, Ms. Clare Connors, in the letter dated February 26, 2019, that UHWO had undergone extensive surveys- when per the Report, this is patently false.

And furthermore, the email from Mr. Li, of DLNR, on January 9, 2019, confirms, all investigatory measures deployed for UHWO came to a close well before any courting/breeding ecology exercise was deployed- as in, it never transpired at UHWO....hence, Chair Case lied to Attorney General Connors when Case stated, “The property was given a rigorous, extensive, detailed study using professionals to gauge for Pueo activity and found no Pueo at UHWO.”

From: Li, Bin C <bin.c.li@hawaii.gov>  
To: Tom Berg <tomberg00@yahoo.com>  
Sent: Thursday, January 9, 2020, 03:13:56 PM HST  
Subject: RE: [EXTERNAL] Re: Your record request re UHWO Pueo project

Aloha Mr. Berg,

To the former question, the survey protocol was the same for both studies except for the second phase we were looking for signs of breeding such as wing clapping or prey provisioning to then hopefully find nests to monitor. We never did find a nest or prey provisioning. We also did some daily activity surveys where we surveyed for longer periods of time to get an indication of pueo daily activity, but these surveys did not occur on UHWO lands.

Hope this info helps. Thank you.

Bin C. Li

Administrative Proceedings Coordinator  
Department of Land & Natural Resources  
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Honolulu, Hawaii 96813  
Tel 808-587-1496, Fax 808-587-0390  
Bin.C.Li@hawaii.gov

In addition, where and from what source, did DLNR get funds to go to Nanakuli and capture, tag, and band a pueo for tracking after April 2018 when DLNR and Project Pueo had exhibited the protocol to conduct research for UHWO had “run out of funds” and declined to investigate the property after April 2018?

Put another way, in August of 2016, when the town hall meeting had transpired on pueo at UHWO, DLNR had stated that there was zero funding to send any personnel to UHWO- as in no funding was available to confirm pueo inhabiting the site.

DLNR stated that monies are needed to conduct any and all on-site visits. The question then to ask is, **who funded the tagging of pueo in 2019 in the Nanakuli area- who sponsored and paid for this exercise when the same effort was asked of DLNR/USFWS to do the same at UHWO?**

**I still request an answer- when did the Project Pueo study formally come to a close- terminate, and why was the study aborted at UHWO (April 2018) ahead of other sites being evaluated for a courting /breeding ecology?**

When USFWS was apprised that if they came to UHWO and trapped a pueo- that such event would contradict the Final Environmental Impact Statement (FEIS) for the property that concluded, "No pueo inhabit the area," USFWS then decided to change its tune and made certain it did not visit the property so as to jeopardize the FEIS findings and create "a headache" for UH Systems by proving the pueo was indeed there.

Had USFWS come to the property, and then tagged a pueo, it would have triggered a Supplemental Environmental Impact Statement (SEIS) be executed for the property per HRS Chapter 343, Environmental Protection Law, and Administrative Rules Chapter 200, Title 11.

Prior to the Nanakuli tagging in 2019 of a pueo- by DLNR, no pueo had ever been tagged in Hawaii and if such event had transpired at UHWO, the event would be a major, monumental exhibit that pueo are utilizing the property. UH Systems as the property owner, would then have to re-plan its development schemes and properly execute a Habitat Conservation Plan for the pueo and mitigate its habitat destined to be destroyed. UH does not want this expense and therefore, did everything in its power to ensure, no thorough examination of the property would actually transpire by USFWS, Project Pueo, UH Manoa, and DLNR.

From: Hoskins, Jenny <jenny\_hoskins@fws.gov>  
To: "tomberg00@yahoo.com" <tomberg00@yahoo.com>  
Sent: Friday, September 30, 2016, 09:14:47 AM  
Subject: Re: THIS MORNING'S PUEO VIDEO: THREE SIGHTED @ UHWO

Hi Tom,

I would like to go out to the site with you some time and see where you think Pueo are nesting. Since I live on Hawaii Island, rather than Oahu, I would need to schedule a flight over, possibly a little later this fall. Today is the end of our fiscal year, so we are in a blackout period with our travel system for about a week. After that ends we can talk about setting up a visit.

Mahalo

Jenny Hoskins, USFWS Migratory Birds and Habitat Programs, Hilo, HI

From: "Hoskins, Jenny" <jenny\_hoskins@fws.gov>  
To: Tom Berg <tomberg00@yahoo.com>  
Sent: Monday, October 24, 2016 7:25 AM  
Subject: Re: URGENT NEWS

Aloha Tom,

It isn't clearly known how much Pueo move between seasons, but if they are typical to their mainland short-eared owl relatives, then they may use different areas during the breeding and non-breeding seasons. The only way we will know this for sure is by trapping and radio-tagging one or more individuals and following them throughout the year.

From: Jenny Hoskins <jenny\_hoskins@fws.gov>  
To: Tom Berg <tomberg00@yahoo.com>  
Cc: Michael Lee <keakuaskahu777@yahoo.com>  
Sent: Wednesday, December 7, 2016, 10:09:11 AM  
Subject: Re: UHWO: I can confirm four Pueo at once- call it a flock!

Hi Tom

Thanks for this information. I'm contacting the person I would coordinate trapping on Oahu with to see what we can do. I will let you know if we can work something out.

Per HRS, and as conveyed by the Hawaii State Senate Majority Research Office, a nesting site or active nest with eggs and fledglings is not required in order for DLNR to deploy protective measures for pueo.

Rather, the threshold, or directive by law, is that where pueo are found, that is considered pueo habitat. Per the law, endangered species habitat shall and must be protected when such species is on undeveloped, state-owned property, like UHWO non-campus, private development land.

See the link below that illustrates DLNR broke the law (illegal to destroy endangered species habitat) when DLNR knowingly and willingly permitted to let UH Systems destroy the pueo habitat confirmed by Project Pueo in its August of 2017 sightings on the property:

[https://www.flipsnack.com/F6DAEF5BDC9/endangered-species-protection-on-state-land\\_senate-majority.html](https://www.flipsnack.com/F6DAEF5BDC9/endangered-species-protection-on-state-land_senate-majority.html)

OIP and the Ombudsman was provided with the documentation to substantiate UH Systems had acted in bad faith and broke the law when UH defoliated the pueo habitat after being apprised pueo are there using the property. The Ombudsman responded, "We are prevented by law, from investigating the Governor and his Cabinet /Administration – even if violating HRS Chapter 343. Our hands are tied."

*Lacking are an explanation from the Report by Project Pueo/DLNR/USFWS/UH Manoa on the encroachment of the study area to extirpate pueo from the property so that no pueo could be quantified in future, subsequent studies.*

Evidence on UH Systems destroying pueo habitat (2017-2018) was provided to DLNR and DOCARE, and yet, no action to order a cease desist transpired- but rather, the pueo habitat was destroyed during the same time Project Pueo had commenced its research and stated it was on the property.

The following confirms, UH Systems in relation to pueo inhabitation being quantified on the property, had purposely, with intent, acted with Malice of Forethought, Administrative Bias, Institutional Prejudice and Willful Indifference as described in detail by Mr. Lee in the two-part video. The imminent harm to pueo was ignored in totality by DLNR and no charges were brought by DLNR to bring UH Systems into compliance:

Part One; Mike Lee Exposes DLNR

<https://www.youtube.com/watch?v=7z8-7u3Q0Bo>

Part Two; Mike Lee Exposes DLNR

<https://www.youtube.com/watch?v=Db46xPfzVQ>

In August of 2016, the 150-acre pueo preserve as established per HB2629 (2018) was completely intact. **To stop pueo from being seen on the property, UH Systems reacted to Mr. Lee and my evidence of pueo on the 150-acres by orchestrating a policy to destroy and defoliate the property used by the pueo.**

Starting with the appointment of UHWO Chancellor Maenette Benham in January of 2017, Benham had deployed a practice to take all fallow agricultural lands that house pueo on the property, and destroy it as quickly as possible by bringing that land back into intensive ag production where trees and grasses once were. Pueo don't eat cash crops- they don't eat farm food, and are sickened by the farmer's chemicals and rat bait poison strewed about- and the farmer's dogs allowed to roam untethered, throughout the property.

Benham purposely, with full approval, allowed the dogs to remain on the property for months on end in order that the dogs could find, and kill/remove all evidence of any ground nesting Pueo that could delay UHWO's development plans for the non-campus, private development land.

Benham defoliated the 150-acre pueo habitat by design and with intent. She was recorded taking personnel to known pueo nesting sites and demanding the area be completely cleared of all foliage as seen in the photo at right- as was captured by a trail camera hidden on the property. Just a few weeks earlier- now bulldozed over clean, a nest used to exist 10-feet from where UHWO personnel are seen in the photo.

**I still request an answer** to the question – *why did DLNR/Project Pueo/UH Manoa and USFWS, not comment, or send any notice to UH Systems that upon the very first attempt by DLNR/USFWS/UH Manoa and Project Pueo setting foot on the property, the observer(s) saw the pueo? Why weren't protective measures immediately provided to the habitat where Project Pueo first saw Pueo, as the law dictates?*

<https://www.youtube.com/watch?v=QoE1bdaqUvg>



The Taking of Housewife Gulch / Pueo Country

<https://www.youtube.com/watch?v=6U2-RErW6JM>



<https://www.youtube.com/watch?v=91-Ozp7fwUM>



And on the second visit, the observer(s) saw the pueo again, and then for some strange unaccountable reason, lacking any explanation, Project Pueo/DLNR/USFWS and UH Mano waited three months to return to the property- why? **Why the delay- why the refusal by Project Pueo to return to the property in a timely fashion after having two immediate confirmed sightings of pueo on the property? Who directed the study to purposely avoid going back to the property in the Fall? I still await an answer.**

Could the answer be, that the destruction of pueo habitat by UH Chancellor Benham/UH Systems- would be witnessed by the observer(s) and that is why both parties conspired to ensure, no observation takes place when trees and grasses are being removed from pueo nesting sites? In addition to the two videos on the previous page depicting pueo habitat destroyed, the evidence is clear, it was done knowingly and willingly:

September 11, 2017

<https://www.youtube.com/watch?v=ZfgHnT03x5Y>

June 6, 2017

<https://www.youtube.com/watch?v=EA1BAKu-FVQ>

June 24, 2017

<https://www.youtube.com/watch?v=oI9SbUqI12M>

January 7, 2018

<https://www.youtube.com/watch?v=iI2dFN05924>

January 15, 2018

<https://www.youtube.com/watch?v=eYHhUpLvUxk>

January 24, 2018

<https://www.youtube.com/watch?v=ORKXnBUvnDs>

On May 23, 2018 -Michael Kumukauoha Lee revealed the destruction of pueo habitat being orchestrated by UH Systems when Lee gave a presentation to the Kapolei Neighborhood Board. The presentation illustrated when the known nesting sites were destroyed, by whom, and what known nesting site remains and where it is:

#### AGENDA

<http://www.honolulu.gov/cms-nco-menu/site-nco-site/articles/31461-makakilo-kapolei-nb-may-agenda.html>

#### POWER POINT PRESENTATION; MIKE LEE

<https://www.flipsnack.com/F6DAEF5BDC9/kapolei-nb-may-2018-uhwo-pueo-habitat.html>

Yet, UH Systems, Project Pueo, DLNR, UH Manoa and DOCARE, refused to act on the presentation made by Mr. Lee. UH destroyed the last remaining habitat by design, with intent to extirpate the pueo from the property- DEAD OR ALIVE. And on December 2, 2019, UHWO Chancellor Benham had ordered the last nest, active it was, to be destroyed. As of today, not one inch remains of the original 150-acre Pueo preserve as identified in HB2629. Benham cleared every bit of it.

Via this OIP complaint gone unanswered for the most part, I hereby **still request an answer** from DLNR/Project Pueo as to **what was the reasoning for not coming to UHWO in the Fall of 2018 when all were apprised in 2016, 2017, and 2018-** “That’s when the pueo are here and most abundant. You will be gaurunteed a sighting if you go to the property in the Fall,” stated Mike Lee and Tom Berg to authorities monitoring the study.

In response, Project Pueo ensured, absolutley no site visit by any Project Pueo personnel wwould transpire on the property in the Fall of 2018. **Who made this decision and why? When DLNR was given a vast pool of video /trail camera photos and timelapse recordings of pueo most active in the Fall Season at UHWO, why did DLNR respond with:**

**“We are not coming back to UHWO to study pueo that would include any Fall Season after our three visits in the Fall of 2017 had confirmed on two of the visits, pueo are there. We are not intersted in the property being abundant with pueo during the Fall Season of 2018, for such confirmation would prove the pueo are indeed returning to the same property and this act would require UHWO to execute a SEIS. For with such, a return of pueo in two subsequent years over the same period would qualify the property as serving pueo and classify the property as pueo habitat. And as such, we don’t want that made known and thereby, we will not return to the property as that would jepardize UHWO from making money on the property- by having to execute the SEIS.**

Albeit Project Pueo, USFWS, UH Manoa and DLNR refused to examine the property during the Fall Season of 2017 beyond just three visits- with all visits being executed in the evening, **here is what was present on the property during those five months of August, September, November, and December of 2017 that Project Pueo missed by design- due to Project Pueo refusing to be on the property in the morning hour period for the entire study when the study was performed in the Fall Season.**

With the survey only transpiring during the evening for all of 2017, the protocol again, was breached. The protocol to detect pueo was grossly incomplete and not thorough at all by any degree- as courting displays were recorded during the sunrise period when Project Pueo, UH Manoa, DLNR, and USFWS refused to set foot on the property in all of 2017 (in the morning). And don’t forget, the same cast of characters simply refused to visit the property in all of 2018 past April, ensuring the most abundant display of pueo behavior in the Fall Season, would be missed by those compiling the Report for Project Pueo.

Yet, the study, its resources used, and the personel paid, had extended the project scope well beyond April of 2018- so why then, is it that DLNR could not fund more than three visits to the property in all of 2017, and aborted going to UHWO after April 2018. *Was this the intent- to cease and desist examining the property at UHWO after April of 2018 while yet extending funding into 2019 for the same research to be conducted elsewhere- anywhere but UHWO?*

In 2018, while Project Pueo aborted returning to the property past April 2018, the Pueo came back as it did for hundreds of years to make a nest in the Fall Season- its last nest on the property- due to UHWO Chancellor Benham bulldozing the nest with a backhoe after being emailed to please protect it.

All known Pueo habitat in existence at UHWO has been destroyed by Benham- and with video proof, I caught her UHWO hire/farmer commissioned to bulldoze every tree along the embankment of both Kalo and Hunehune Gulch down- and they dumped the trees in the gulch itself, blocking the water drainage route- another violation of the Clean Water Act...all caught on camera. The trees are still in the gulch blocking the water/drainage for the entire southern portion of the property.

Benham was shown these videos, of which she then used as the tool to locate the Pueo and kill them on December 2, 2018, and wipe out their habitat in totality:

June 28, 2018- Pueo Pair Arrive Early in Season to Mate  
<https://www.youtube.com/watch?v=jvCaWHkHwK8>

September 4, 2018  
<https://www.youtube.com/watch?v=QkwZJvEwfVU>

September 5, 2018  
<https://www.youtube.com/watch?v=9Ofhq71RpI0>

September 11, 2018  
<https://www.youtube.com/watch?v=srsf3V6z-7w>

September 15, 2018 /Time-lapse of Nest Site  
<https://www.youtube.com/watch?v=vXpDKMWJ2BY>

October 9, 2018  
[https://www.youtube.com/watch?v=7aUOQ\\_s6Fso](https://www.youtube.com/watch?v=7aUOQ_s6Fso)

October 19, 2018  
<https://www.youtube.com/watch?v=bPfl0CeiA9Q>

November 1, 2018  
<https://www.youtube.com/watch?v=3Us2iAscYeY>

November 6, 2018  
<https://www.youtube.com/watch?v=uTPGo64JkW4>

November 8-11/Time-lapse 2018  
<https://www.youtube.com/watch?v=NzrQ9oQNGdc>

November 22, 2018  
[https://www.youtube.com/watch?v=vSB\\_5xW2J7A](https://www.youtube.com/watch?v=vSB_5xW2J7A)





ATTORNEY GENERAL/DLNR CHAIR MALICE

Attorney General Ms. Clare Connors, wants the public to believe, that Pueo were never quantified on the property, either by DLNR, Project Pueo, USFWS, UH Manoa or by any other means. That no documentation exists of substance that would exhibit otherwise to change that opinion.

Ms. Connors wants people to believe this narrative, that the property was void of any presence of any endangered species habitat because she relied on the information regarding the property's characteristics from the FEIS of 2007, and the Reports by Project Pueo of 2018/2019.

Furthermore, Ms. Connors came to such findings on the narrative provided directly to her from DLNR's Chair, Ms. Suzanne Case- with Ms. Case claiming, "The property was extensively surveyed," when we now know, that is a not a truthful statement- no courting and or breeding ecology survey was ever conducted on the property. As such, Ms. Case advanced a deceitful statement made in bad faith and with intent to defraud the Attorney General of the truth. The truth being, the very minute Project Pueo came on the property for the very first time in August of 2017, they had a 100% confirmed sighting of the Pueo on the UHWO property. On the second visit- again, another confirmed sighting. **Yet, Ms. Case wrote to Ms. Connors, that no such identification on the property transpired.**

When USFWS announced at the August 18, 2016 Town Hall Meeting held at UHWO on the subject of Pueo on the property, USFWS stated that in order to properly assess if a property is being utilized by the Pueo, the observer should conduct the observation exercise year-round, due to the Pueo being a "plot-hopper," using one patch of land for one activity during one season, and then moving to another patch to engage in another activity during another seasonal period, otherwise, the observer is apt to "miss that bird."

For the FEIS, PBR Hawaii conducted the observation exercise to quantify if Pueo were present on the property with an observation exercise that transpired in the month of April only----no other months were used to observe---and with that, the observation only for a few hours, on just two mornings, and never done at sunrise, and or the sunrise period.

Hence, with DLNR stating that it was a satisfactory FEIS exercise to look for Pueo for just 6 hours in total, and done by driving in a car to look on just two mornings, very disturbing indeed when DLNR /USFWS has stated, the inventory needs to be conducted year-round.

Yes, DLNR signed-off on the FEIS stating in writing, that this effort by PBR Hawaii was a perfect inventory exercise- a model of great thoroughness, a model of extensive research deployed, and conclusive at that.

When DLNR was apprised by Mr. Michael Kumukauoha Lee that DLNR should have intervened, and ordered an amended FEIS to require PBR Hawaii to expand its inventory efforts and observe for Pueo inhabitation in other seasons as well, DLNR ignored that plea, claiming the 6-hours done over two-day's time to look for Pueo on 500-acres of raw land, extremely thorough.

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## RECAP

The Office of Information Practices is being summoned to assist me have DLNR answer the three points of inquiry included herein and delivered in previous emails asking for answers.

DLNR has thus far, not complied to the request to identify those on UHWO property doing the observation exercise – such as who was chosen for the study, what were their qualifications to be chosen- such as who is KW, and why was KW chosen to accompany Project Pueo on the property, and I was rejected- denied participation? What justified DLNR/Project Pueo not allowing me to show them directly, where the Pueo are active and nesting on the property? To date, DLNR will not answer this, and is withholding this information from the public.

Also gone unabated, ignored by DLNR, is the answer as to why Project Pueo aborted expending resources to do more in-depth surveys at UHWO, while yet expending resources past 2018, to even tag a Pueo elsewhere in 2019?

What was the basis for a cease and desist – the termination of the survey for UHWO in April of 2018? Why were other surveyed properties provided with more extensive research, studies past April of 2018, and UHWO avoided?

Why did Project Pueo refuse to observe for Pueo in the morning hours in the entire Fall Season of 2017, and only conduct its survey in the evening hours, during the population survey count exercise? It is in the morning hours I have evidence of the courting ecology- dozens of videos proving it- yet DLNR refused to go to the property in the morning hours in the entire Fall Season of 2017, and refused to even go to the property in the Fall of 2018 at all. And still, Project Pueo told the DLNR Case, who told the Attorney General, the surveys executed at UHWO were exhaustive, in-depth, thorough, and most extensive. This is patently false and DLNR's email to me on January 7, 2020, reflects that- with DLNR saying, "We did not do those more in-depth types of surveys at UHWO."

Of grave concern, is I have commissioned other ornithologists from the mainland to observe my videos depicting Pueo chasing each other and engaged in wing flapping displays and the mid-air stationary flapping of wings over the head of a stationed Pueo on the ground- and after viewing these videos, these ornithologists have concluded 100%, **that was evidence of a courting ecology, period.**

In contrast, Ms. Case of DLNR, Afsheen Siddiqi of DLNR, David Smith of DLNR, and all of Project Pueo, and including USFWS Ms. Hoskins, have exclaimed that after watching the same videos– saw no evidence of Pueo in chase, saw no Pueo in wing flapping activity. It appears Ms. Case, USFWS, and UH Manoa/Project Pueo, has an agenda to do harm and violate the intent of HRS Chapter 343.

Hence, what we have here, as Mr. Michael Kumukauoha Lee has clearly demonstrated and proven without a doubt, is that DLNR has acted with Malice of Aforethought, Willful Indifference, Administrative Bias, and Institutional Prejudice to knowingly cause harm to an endangered species that DLNR is by statute bound to protect.

## CONCLUSION

Albeit Mr. Michael Kumukauoha Lee is deceased and cannot continue to expose DLNR for malice, all one has to do, is look at the videos and decide for yourself- who is telling the truth, Mr. Lee, or DLNR's Project Pueo with Project Pueo concluding the property does not contain one inch of Pueo habitat.

Connect the dots- if Project Pueo were comprised of honest people, they would have conducted observation exercises during the morning hours in 2017 and again in 2018 during the Fall Season when the taxpayers of Hawaii have proved, the Pueo are there- with hundreds if not thousands of hours of eye witness accounts and surveillance to back it up. Project Pueo, on purpose, avoided the property when Lee and I proved, Pueo are thriving there. Why would Project Pueo screw the Pueo at UHWO- can you say paid off? I got proof.

Mr. Lee, and many, many others have testified to various government entities for a decade plus, we got Pueo in Ewa, and dammit, protect them.

In response, DLNR refused to go to the state-owned undeveloped property to confirm this- for years, claiming, "We will only go to investigate that property if you (Legislature) give us money and fund the exercise." And when the funds came, DLNR ensured, the protocol used, was flawed, and incomplete.

In this closing example, **I have thousands of hours of two-Pueo using this one tree cluster FOR THREE SOLID YEARS OVER THE FALL SEASON-** with one Pueo coming during the Spring /Summer Season- waiting for its mate- and then around Fall Season, with its mate substantiated on the property, they court/mate and raise their broods in the August, September, October, and November to early December months- then leave – take a hiatus. **I have the photo of its fledgling.** Here is the loner Pueo engaged at the property in a foraging ecology- all new videos- not included in any previous page. Note, I have dozens of other videos showing Pueo feeding each other – but they are night shots and the video is dark, but show them going in and out of same tree cluster where you see Pueo here to feed each other:

This tree – where you see the Pueo fly out of, was ordered cut down by UHWO Chancellor Benham December 2, 2018 after she was notified the Pueo live here at this spot-

<https://www.youtube.com/watch?v=n8MXcYcQFL8>

Pueo leaving a tree ten yards from the very tree in the video above- Benham defoliated this entire habitat:

<https://www.youtube.com/watch?v=IckLukGfV0E>

Pueo flying out of same cluster of trees Benham had ordered cut down December 2, 2018:

<https://www.youtube.com/watch?v=t233RGXKN88>

Pueo leaves same tree cluster Benham had ordered cut down- Pueo flees to rail structure:

<https://www.youtube.com/watch?v=Uu9e2G4xttw>

Same trees as in above videos Benham had ordered removed:

<https://www.youtube.com/watch?v=lcrXqcdnYHI>

Pueo taking exit over Kaloi Gulch from same patch of tree cluster- all trees removed by Benham:

<https://www.youtube.com/watch?v=1iUasv9EV6w>

Pueo same patch of trees removed by Benham:

<https://www.youtube.com/watch?v=f3T-VhYEi2c>

**From:** Rosemary Cuccia <[imasong@aol.com](mailto:imasong@aol.com)>  
**Sent:** Wednesday, July 10, 2024 11:02 AM  
**To:** Department of Planning and Permitting <[dpp@honolulu.gov](mailto:dpp@honolulu.gov)>  
**Subject:** I oppose the solar farms

CAUTION: Email received from an **EXTERNAL** sender. Please confirm the content is safe prior to opening attachments or links.

Please don't take away the agricultural land as Hawaii really needs to have this for food. We cannot rely on food being brought in from the mainland and contaminated with God knows what. This land needs to be in the hands of the Hawaiian people and farmed agriculturally. All the so-called solar projects are not intended for helping the people here but just greedy money makers taking away land again from people who need it. I do not approve the mahi solar project and I ask that you do the same.

Mahalo

Rosemary Cuccia  
91-1295 Renton Road At A101  
Ewa Beach Hawaii 96706