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PLANNING COMMISSION

COUNTY OF MAUI

STATE OF HAWAII

REGULAR MEETING

Held at the Planning Department Conference Room, Kalana
Pakui Building, 250 South High Street, Wailuku, Maui,
Hawaii, commencing at 9:00 a.m., August 9, 2011.

REPORTED BY: Rachelle Primeaux CSR No. 370

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A P P E A R A N C E S

CHAIRMAN:

KENT HIRANAGA

COMMISSIONERS:

WARREN SHIBUYA, VICE-CHAIR
WARD MARDFIN
DONNA DOMINGO
PENNY WAKIDA
IVAN LAY
KEONE BALL
LORI SABLAS

CORPORATION COUNSEL:

JAMES GIROUX

PLANNING DIRECTOR:

WILLIAM SPENCE

PUBLIC WORKS:

ROWENA DAGDAG-ANDAYA

1 MAUI COUNTY PLANNING COMMISSION

2 TRANSCRIPT OF PROCEEDINGS

3 * * *

4 CHAIR HIRANAGA: Good morning. I would like to
5 call the Maui Planning Commission meeting to order. Today
6 is August 9th, 2011, and we do have a quorum. The first
7 order of business, is there anyone here that wishes to
8 provide public testimony at this time on any agenda item?
9 I'll go down this list first. Janet Buen. You may testify
10 at this time or defer until the agenda item comes up. Janet
11 Buen.

12 MS. BUEN: Good morning, Chairman Hiranaga, Vice
13 Chair Warren Shibuya. My name is Jan Yagi Buen, and I'm
14 here as an individual not representing any group. I'm here
15 to support the Maui Medical Plaza proposed for Kahului.
16 Throughout my entire adult life, I have been advocating for
17 better health care for Maui residents. I want to talk about
18 a little bit back in the early -- of my background. In the
19 early 1980's, a small group of Maui citizens raised the
20 awareness of legislators about the poor conditions of our
21 only acute care hospital, Maui Memorial.

22 We used our own monies to travel to the state
23 capital to lobby for improvements. First it was for beds
24 and cribs, because the beds were warped. The cribs'
25 railings were falling. And then we had the overwhelming

1 support from the community to lobby for CIP funds to make
2 improvements for a new wing and modernize the hospital from
3 what it was when it was a country hospital. There are -- as
4 you look around you, where do you see modern office spaces
5 medically equipped for providing health care services to our
6 badly needed -- we're growing. It's a demand. It's a huge
7 demand for better health care services. And I have been
8 always advocating when I found out about the Maui Medical
9 Plaza's interest.

10 And this is with using private monies, not our
11 taxpayers' monies to build out this project. So, I ask you
12 to think really deep in your hearts and say to yourself we
13 really -- do we really need this? Yes, we do. There is a
14 great need for modern office spaces, adequate medical
15 facilities, and this is why I'm supporting this Maui Medical
16 Plaza. To remain a status quo, to not do anything is going
17 backwards. We are far behind already.

18 COMMISSION SECRETARY: Three minutes.

19 MS. BUEN: I urge you -- let me wrap up. I humbly
20 request that you approve the application for the SMA for the
21 Maui Medical Plaza. Thank you very much.

22 CHAIR HIRANAGA: Thank you. Questions,
23 Commissioners? Seeing none, thank you. Next individual is
24 Gordon Cockett.

25 MR. COCKETT: Good morning, ladies and gentlemen

1 of the Planning Commission. My name is Gordon C. Cockett.
2 And I use my middle initial because there are three Gordon
3 Cocketts on this island. I don't want the other two to get
4 blamed for anything I say, so I always use my middle
5 initial. I was recently watching the April 26th, 2011
6 Planning Commission meeting aired on Akaku community
7 television.

8 In that meeting, Commissioner Wakida questioned
9 the appropriateness of a letter from Mayor Alan Arakawa
10 dated March 8th, 2011. This letter on the Mayor's
11 letterhead is to the project's developers stating support of
12 the project. The same letter was part of the final
13 environmental assessment packet the Maui Planning Commission
14 members received for their April 26th meeting. Alan Arakawa
15 was a paid consultant prior to his recent election for the
16 developers of the Maui Medical Plaza at Kanaha project, and
17 as such, I along with Ms. Wakida question the
18 appropriateness of the Mayor submitting this letter of
19 recommendation.

20 Nowhere in the letter does the Mayor state that he
21 was a paid consultant on the project, and in watching the
22 footage of the April 26th meeting, both the Planning
23 Director and Corp Counsel clearly appear uncomfortable with
24 this conflict of interest on the Mayor's part. I would ask
25 both the Planning Director and Corp Counsel today if this,

1 in fact, is a conflict of interest and has this matter been
2 discussed with the Mayor. As I'm sure you're well aware of,
3 the intended location is on wetland of the Kanaha pond area.
4 Fill and build is a term being circulated. Six stories with
5 a similar parking structure next to it will be an eyesore as
6 I imagine it. And it doesn't take an engineer to see fault
7 where it lies. And isn't this within the sanctuary? I'm
8 not against the plaza. I'm against the location.

9 There's a lot of other space in Kahului for this
10 project, not at Kanaha. I beg you to turn this one down.
11 Thank you very much.

12 CHAIR HIRANAGA: Questions, Commissioners? Seeing
13 none, thank you. Next individual is Charlie Silva. Or is
14 it Chanlie?

15 MR. SILVA: If it would be appropriate, I would
16 like to defer comment until the agenda comes up.

17 CHAIR HIRANAGA: Sure. Peter Stolle.

18 MR. STOLLE: Good morning, everybody. My name is
19 Peter Stolle. I live at the Lualailua Hills, and I would
20 like to give a short testimony on the proposed wind farm.
21 We sold our business and we moved to the country away from
22 the noise and the proximity of the city to live a quiet farm
23 life. We are the only property owners who are majorly
24 impacted living right next to the proposed wind farm. We
25 made our home here, and we live on our six acres for over 23

1 years. And we just recently found out about the new
2 proposed development.

3 We have until now never yet seen a copy of the
4 EIS, nor have we ever seen a map to show us exactly where
5 the towers are located. We live off the grid. We have our
6 own water, make our own electricity. The wind farm right
7 next to us and in view of our living room will in no way
8 improve our community next to it. Actually, converting the
9 property next to us from ag to industrial, the huge
10 construction and the operation of the wind farm will really
11 affect our lifestyle. And for that, we should be
12 compensated. Thank you.

13 CHAIR HIRANAGA: Thank you. Questions,
14 Commissioners? Commissioner Mardfin.

15 COMMISSIONER MARDFIN: Sir, do you live on
16 Hawaiian Homelands?

17 MR. STOLLE: I live surrounded by Hawaiian
18 Homelands. I live right at the border to the proposed wind
19 farm, but I live on fee simple land. We bought this land 23
20 years ago.

21 COMMISSIONER MARDFIN: And you said you thought --
22 your last sentence was you said, and you think you ought to
23 be compensated. How would you envision such compensation?

24 MR. STOLLE: I believe that by changing the status
25 over there from agricultural to industrial, it really

1 deflates the property value. Also, we have the constant
2 noise of the wind plates. We have noise for about ten
3 months for the construction site, which also from what I
4 hear includes blasting the area, a concrete batch plant.
5 The congestion of the traffic. My wife is an R.N. for Kula
6 Hospital, and she goes through this road every single time.
7 And I see a lot of problems coming towards us.

8 COMMISSIONER MARDFIN: Do you know how far you are
9 from the towers?

10 MR. STOLLE: I believe .5 miles. It could be .8,
11 but see, I never have seen a map, nor have I seen the EIS.
12 I was actually not even contacted about the whole project.
13 And I was -- you know, I don't really have that much
14 information on it yet.

15 COMMISSIONER MARDFIN: Thank you very much.

16 MR. STOLLE: Thank you.

17 COMMISSIONER MARDFIN: Thank you for coming to
18 testify.

19 CHAIR HIRANAGA: Commissioner Shibuya. Sir,
20 there's another question.

21 COMMISSIONER SHIBUYA: Could you help me
22 understand where you're located? Is it mauka, makai, or is
23 it south or north of the property that is proposed for the
24 development?

25 MR. STOLLE: I am mauka at the 21 mile marker.

1 Right where the cattle guard is, you look up towards the
2 hill. You see a property with two big silo water tanks.
3 That is my property.

4 COMMISSIONER SHIBUYA: Okay. Thank you very much.

5 CHAIR HIRANAGA: Commissioner Mardfin.

6 COMMISSIONER MARDFIN: I'm sorry, you're mauka of
7 the project or mauka of the Piilani Highway?

8 MR. STOLLE: I'm mauka of the Piilani Highway.
9 I'm halfway adjacent to it.

10 COMMISSIONER MARDFIN: Okay. Thank you very much.

11 CHAIR HIRANAGA: Thank you. Next individual is
12 Irene Bowie.

13 MS. BOWIE: Good morning, Chair, Commissioners.
14 Irene Bowie, Maui Tomorrow Foundation, and I would like to
15 speak on three items. The first would be the Auwahi Wind
16 Farm. Maui Tomorrow Foundation supports wind power as a
17 clean energy alternative that will help in reducing the
18 adverse affects of global warming; however, it's important
19 to construct and locate these facilities in ways to take
20 into account their potentially devastating impacts on wild
21 life. The American Bird Conservancy said in February of
22 this year that the build-out of wind energy proposed by the
23 federal government to meet the Department of Energy target
24 generating 20 percent of the nation's electricity through
25 wind power is expected to kill at least one million birds

1 per year by 2030, and probably significantly more.

2 To be a truly green source of energy, wind power
3 needs to be bird smart by using the best technology and
4 management practices to avoid and minimize harm to birds
5 such as by burying transmission lines in high risk areas.
6 Since this has been ruled out for Auwahi, we ask that the
7 project follow Avian Power Line Interaction Committee
8 Standards for above-ground transmission lines including
9 construction design standards, permit compliance, employee
10 training and mortality reduction measures. It seems that
11 the construction route will be divided between upcountry and
12 south Maui with large deliveries going through
13 Wailea-Makena.

14 Will there also be measures taken to ensure that
15 additional traffic through upcountry doesn't create unsafe
16 conditions for pedestrians, particularly near schools along
17 this route? We also have concerns over the use of hazardous
18 materials during construction activities that could affect
19 the region's aquifer and the potential for sediment and
20 other pollutants during the construction phase blowing into
21 nearshore waters. Please ensure that the spill prevention,
22 containment and counter measures plan and the storm water
23 pollution prevention plan are monitored and enforced.

24 In closing, it's important to remember that the
25 large remote projects aren't the only solution to our

1 country's energy woes. Maui County can produce clean
2 electricity by using rooftop solar panels, small wind
3 turbines and other adaptable forms of other renewable
4 generation without the construction and transmission issues
5 associated with good projects. Thank you.

6 Next I would like to speak on the Medical Plaza at
7 Kanaha. The 2002 Wailuku-Kahului Community Plan states the
8 following: "Protect shoreline wetland resources and
9 floodplain areas as valuable natural systems and open space
10 resources. Use of natural systems are important for flood
11 control as habitat area for wild life and for various forms
12 of recreation. Future development action should emphasize
13 flood prevention and protection of the natural landscape.
14 Drainage canals should not be used for building sides, but
15 for rather for public open space." And further adds,
16 "Higher building forms up to six stories should be sited in
17 the central portion of the initial blocks."

18 The developers claim that building this facility
19 will solve Maui's shortage of doctors, yet medical
20 professionals know that Maui's low rural rates of Medicare
21 reimbursement and the high cost of malpractice insurance are
22 more to blame. They also tell you this massive building
23 will not harm the federally protected species at Kanaha
24 Pond, but please remember this. In the 2009 letter to the
25 Army Corps of Engineers, DLNR's Division of Forestry and

1 Wild Life states, "On the island of Maui, some of the
2 largest concentrations of endangered Hawaiian Coot and
3 endangered Hawaiian Stilt occur adjacent to the proposed
4 project at Kanaha Pond. In addition, the endangered
5 Hawaiian Duck is also known to forage and nest within the
6 vicinity of the proposed medical plaza at the Kanaha
7 project."

8 The letter further states that the Division of
9 Forestry and Wild Life strongly feels that the wetland
10 status of this site should be valued and that no filling and
11 construction be allowed. We encourage the Army to protect
12 this wetland habitat from development runoff, erosion and
13 fill. The U.S. Fish and Wild Life and State Division of
14 Forestry and Wild Life believe that the Hanalei National
15 Wild Life Refuge on Kauai, the State Wild Life Preserve at
16 Kanaha on Maui and several smaller national wild life
17 refuges on Oahu are essential for the preservation of
18 Hawaiian's endemic water birds.

19 The County's Planning Department also had concerns
20 that the project's construction activities could result in,
21 quote, irreparable damages to the immediate site and
22 potentially the entire Kanaha Pond Wild Life Sanctuary.

23 Unfortunately, all of this has been ignored, and
24 the Army Corps issued a permit to fill this site. This
25 Commission recently accepted the project's environmental

1 assessment. Now, as you consider the project's SMA permit,
2 please add conditions that do something to protect the
3 endangered species at Kanaha wetlands. Please require an
4 avian biologist to monitor both the parcel itself and Kanaha
5 Pond for indications of stress on nesting birds throughout
6 the project's construction phase, and prohibit construction
7 activities such as pile-driving during the nesting season.
8 Thank you.

9 And lastly, I would like to just ask the question
10 really about the acceptance of the minutes for the April
11 26th meeting that you'll be accepting today. As of 9:00
12 last night, the minutes for the April 26th meeting are still
13 not posted on the County's web site. And according to the
14 Maui Planning Commission's Rules of Practice and Procedure,
15 the written minutes shall be public records and shall be
16 available within 30 days after the meeting. Although the
17 April 26th minutes are not posted, the minutes from the May
18 10th and the June 14th minutes are posted on the site.

19 So, I ask the Planning Director and Corp Counsel
20 how is the public process served in this? We've had no
21 chance as the public to take a look at what happened at that
22 meeting. And as an earlier testifier discussed, certain
23 things came up that the public has an interest in. So, I
24 don't know how you accept those minutes today when we
25 haven't had a chance to even see them. Thank you.

1 CHAIR HIRANAGA: Questions, Commissioners?
2 Commissioner Mardfin.

3 COMMISSIONER MARDFIN: I have one on your first
4 two testimonies, one each on your first two testimonies.
5 Let me go back to the wind farm. You said basically because
6 they don't want to look at underground transmission lines,
7 you implied that there was something they could do to reduce
8 the damage to wild life of various sorts. What are those
9 sorts of things that can be done?

10 MS. BOWIE: This is something that both the U.S.
11 Fish and Wild Life and utilities companies on the mainland
12 have put together. And it is the -- let me just see where I
13 have it here, because it's a long name. It's the Avian
14 Power Line Interaction Committee Standards, and it's a whole
15 88 page document that really talks about what you can do.
16 Even for the transmitter tower to have unguidelines rather
17 than guidelines, these things about the transmission lines,
18 what they can do. They see even things like the employee
19 training, that really everybody that works on the site
20 recognizes the endangered species that are there and things
21 that they can do.

22 So, it seems like the very least, because in
23 talking to both U.S. Fish and Wild Life and State Wild Life
24 officials here about the medical plaza and Auwahi, they have
25 so much concern about what wind farms are really -- you

1 know, the toll they're taking on, and it's not only birds,
2 it's bats and other things as well. So, you know, we're in
3 a predicament. We all want to go forward with alternative
4 energy, and at this point, it seems like these big wind
5 farms are what we're being asked to consider. So, I think
6 that is something that's a really good planning document for
7 the folks to go forward and at least try to mitigate as much
8 they can.

9 COMMISSIONER MARDFIN: Do you have a copy of that
10 report?

11 MS. BOWIE: I can get you that.

12 COMMISSIONER MARDFIN: Mr. Chairman.

13 CHAIR HIRANAGA: Commissioner Mardfin.

14 COMMISSIONER MARDFIN: May I ask a question on one
15 of her other testifying topics?

16 CHAIR HIRANAGA: Proceed.

17 COMMISSIONER MARDFIN: With respect to Kanaha, we
18 had what I consider very credible testimony the last time we
19 dealt with this that the birds will not be harmed by this
20 sort of thing. Why do you think that that testimony is
21 incorrect?

22 MS. BOWIE: Again, from talking to U.S. Fish and
23 Wild Life, American Bird Conservancy and State Wild Life
24 officials, they have a lot of concern for it. Because they
25 think that in construction, the construction phase and the,

1 you know, the amount of pile-driving and things that have to
2 be done to put such a large building on that spot could
3 absolutely disturb the nestings of endangered species there,
4 and they said that it is important to be monitoring not just
5 what's happening on those two acres, but what's happening in
6 the pond, because those are the cumulative impacts and the
7 secondary impacts of this project.

8 And that's why it probably did deserve to have a
9 real EIS done on it. Things like the shadowing from the
10 building, all of that needs to be looked at. And no one has
11 applied for an incidental take permit on this project, and
12 there are wild life officials that feel that if any -- if
13 any loss of life or endangered species happens even at the
14 pond, then this developer will be looking at, you know, take
15 of a federally protected species. So, again, I mean I just
16 feel the spin that's been put on this project about somehow
17 this is going to solve the medical problems of Maui has so
18 many people convinced, and it's moving -- quickly moving
19 through the process. We don't have an opportunity to talk
20 about this at the County Council, that the very least we can
21 do is put some real conditions with teeth on this SMA to
22 protect that wetland.

23 You know, I find this a shameful, shameful
24 project. I think it could have been put anywhere else in
25 central Maui. It could have served as part of a medical

1 campus if it had been located in Kehalani or I mean Maui
2 Lani or Waiale. As they're looking to go forward, they talk
3 about medical facilities there. So, you know, 59,000 acres
4 of wetland we used to have in Hawaii, and it's dwindling
5 away. And as I read in my testimony, Kanaha is considered a
6 very important part of the wetland system. So, it's apples
7 and oranges to me to do the mitigation down in Waihee, and I
8 know that that was an FAA decision.

9 But still, and that doesn't help Kanaha. And as
10 we all know now that the, you know, the pump, the broke in
11 January that wasn't even allowed to get the funding until a
12 few months ago to pump water back in there. Everybody
13 thinks it's so dry because of the tsunami, and it's not.
14 It's because the brackish water pump was broken. We're
15 neglecting that wetland, and I think it's a shame. I hope
16 if nothing else this wakes up our community to band together
17 and develop some kind of a Friends of Kanaha to save what we
18 have there. It's an important historic site if nothing
19 else.

20 COMMISSIONER MARDFIN: Thank you very much.

21 MS. BOWIE: Thank you.

22 CHAIR HIRANAGA: Any other questions? Seeing
23 none, thank you. Next individual is Mike, and I cannot read
24 your last name.

25 UNIDENTIFIED SPEAKER: I'll defer my testimony.

1 CHAIR HIRANAGA: All right. Thank you. Ron
2 Montgomery.

3 MR. MONTGOMERY: Good morning, Chair and
4 Commissioners. My name is Ron Montgomery. I'm a Kula
5 resident. I'm a member of the board of directors of the
6 Kula Community Association. I have a -- I have degrees in
7 zoology and wild life management, and I'm here to testify on
8 the wind farm. As a previous testifier said, our community
9 also supports renewable energy, but we believe that projects
10 of this sort need to be more than an energy project and must
11 take care of our environment as well.

12 I did write several comments to the draft EIS, and
13 I did receive responses back from the consultant. However,
14 I believe that the responses lack logic and sincerity, and
15 I'm going to urge the Commission not accept the final EIS
16 statement until there's a better effort to produce a
17 document that shows commitment to the care of our community
18 and our environment. And I'll give you three examples. The
19 hoary bat is an endangered species that lives in the area,
20 and it requires a species of tree as part of its
21 reproductive site. In the draft EIS, it was said that
22 certain trees that would be identified would be saved until
23 after the breeding season and then potentially cut down.

24 The response that I received back was, well, the
25 mitigating factor is they'll be there in the breeding

1 season, and the young will then have an opportunity to
2 flourish. The question is where do they breed on the next
3 time around? So, that to me is an insufficient answer as
4 far as taking care of an environmental species. I have to
5 commend that there was an additional study of an endangered
6 plant species, and during that study, they did find an
7 additional endangered plant, the maiapilo, and the
8 mitigating factor was it would be avoided if possible.

9 The avoided if possible, to me, isn't good enough.
10 And the mitigating part of this was that if they lost those
11 plants, they would mitigate it by taking care of the
12 Blackburn Sphinx Moth. And if you're familiar with
13 ecosystems, you can't pull out a species and put another in
14 and expect a species of the ecosystem to survive. You can't
15 get rid of the California Condor, for example, and save it
16 by protecting the giant sequoia.

17 So, my belief is that there needs to be a sincere
18 effort to protect all species that are identified and
19 flagged as being endangered and important. Just as fish on
20 the mainland have caused dams to not be built, I believe
21 that these endangered plants should and could cause a road
22 to be diverted to avoid those.

23 COMMISSION SECRETARY: Three minutes.

24 MR. MONTGOMERY: And I had another one on the
25 Ho'apili Trail with noise levels and the fact that their

1 comment is that there would be a gentle swishing sound;
2 whereas, in the EIS, they say that it's the equivalent of
3 light auto traffic at 100 feet. I don't believe that that's
4 a good mitigation. I think that there needs to be something
5 done in the area directly benefitting recreation and the
6 environment that is specific in the EIS. I hope that the
7 project is eventually approved, but only after the effort to
8 show a greater concern for the 'aina is made. Thank you.

9 CHAIR HIRANAGA: Questions, Commissioners? Seeing
10 none, thank you.

11 MR. MONTGOMERY: Thank you.

12 CHAIR HIRANAGA: Les Krenk.

13 DR. KRENK: Good morning, Chair Hiranaga and
14 Members of the Commission. My name is Les Krenk. I'm
15 testifying as an individual on the proposed Maui Medical
16 Plaza project. I'm also the owner of the Maui Clinic
17 Pharmacy located at 53 South Puunene in Kahului. I would
18 like to share one aspect of my -- of my practice that is
19 very positive for the people of Maui and that would be
20 enhanced by the approval of this project.

21 I now own and use the only clean air aseptic
22 compounding hood on the island. There are other aseptic
23 compounding hoods on the island, but none of them can be
24 used in the retail. And most of them are used in lab or
25 chemo drugs, so they can't be used for what I'm using them

1 for. I use them to compound products to be used in the eye.
2 The ophthalmologists on the island tell me that we save two
3 eyes a month because we have this hood in our pharmacy. The
4 USP, the United States Pharmacopeia, governs the use of this
5 hood. The USP is cited in the state pharmacy law, so it
6 becomes the part of the law of the State of Hawaii. The new
7 regulations that will be going into place that are now in
8 review by the USP say that that clean air hood, that aseptic
9 clean air hood will have to be located in a clean room for
10 it to be certified.

11 Putting a clean air room in Maui Clinic is an
12 oxymoron. It's impossible. My contracting people -- my
13 construction people tell me that it can't happen. I've had
14 my construction people look for a site and my facilities
15 person look for a site to put a hood. And we can't find a
16 site that meets our criteria, one of the criteria being that
17 it can't be a freestanding hood in a room by itself that we
18 use twice a month. The rent on that would be prohibitive.

19 We couldn't make any money, so it would have to
20 have a pharmacy with it. This project would meet my
21 requirements to be able to have that hood and continue
22 saving eyes on this island. So, I urge you, strongly urge
23 you to approve this project for the people of Maui. And I
24 thank you for your time.

25 CHAIR HIRANAGA: Questions, Commissioners?

1 Commissioner Shibuya.

2 COMMISSIONER SHIBUYA: Thank you very much.

3 DR. KRENK: Sure.

4 COMMISSIONER SHIBUYA: I would like to get a
5 little bit more insight into this aseptic hood for the clean
6 air. What are some of the dimensions or properties and/or
7 constraints that it has?

8 DR. KRENK: It's about 7 feet tall with its legs.
9 It rolls into a room, has a huge HEPA filter and air pump
10 that air is -- the air is pumped through the HEPA filter and
11 pushes through air that's in that room until the air coming
12 through is all filtered through that HEPA filter containing
13 no bacteria or viruses at that time. So you can work in an
14 environment through gloves that you go in, and you've seen
15 these gloves that you go in and do different things with.
16 And we take the products in so that we can make a sterile
17 product to come out of the hood sterile.

18 COMMISSIONER SHIBUYA: Is this an instrument or
19 product available at the diagnostic labs here on Maui,
20 because they deal with something very similar?

21 DR. KRENK: It could be. Any hood used in lab
22 work can't be used in compounding of prescription drugs.

23 COMMISSIONER SHIBUYA: I understand. I see. I
24 can see the differences there.

25 DR. KRENK: If I compounded a chemo drug in that

1 hood, then I could only use it for chemo after that. I
2 wouldn't be able to use it for the sterile ophthalmics after
3 that.

4 COMMISSIONER SHIBUYA: Because I'm familiar with
5 the diagnostic lab type of instrument. You're describing
6 something very similar.

7 DR. KRENK: Very similar. It depends if it's a
8 down flow or an out flow air source, which way the air is
9 pushing.

10 COMMISSIONER SHIBUYA: Right.

11 DR. KRENK: And then there's an open environment
12 one where you don't have the gloves to go in. Ours is an
13 enclosed environment.

14 CHAIR HIRANAGA: Commissioner Wakida.

15 COMMISSIONER WAKIDA: Good morning. Thank you for
16 coming. I'm not quite clear, what is it about the proposed
17 facility, the proposed plaza that is conducive to this
18 particular, it's not an instrument, but what you're talking
19 about?

20 DR. KRENK: We're going to be able to build a
21 clean room much easier in a clean new facility than we can
22 in our facility that probably would never make it because of
23 the roof we have, the problems in the roof and the age of
24 the building.

25 COMMISSIONER WAKIDA: So, it's the idea that it's

1 a new building is what's conducive?

2 DR. KRENK: And affordable that way.

3 COMMISSIONER WAKIDA: I see. Thank you.

4 CHAIR HIRANAGA: Any other questions,

5 Commissioners? Seeing none, thank you.

6 DR. KRENK: Thank you.

7 CHAIR HIRANAGA: Next person, Beth Fox.

8 DR. FOX: Good morning, Commission. I've never
9 done this before, so I'm a little nervous. My name is Beth
10 Fox, and I'm testifying as an individual for the Maui
11 Medical Plaza. My husband and I are pediatricians, and
12 we've been pediatricians on this island for 12 years. We
13 currently practice at the Maui Clinic facility in a
14 950-square foot space and see 40 patients, 40 kids a day
15 serving about 2,000 of our children. The building is
16 falling down. It is dilapidated. The walls are falling
17 down. We had water coming from the roof, and we desperately
18 need a new facility where physicians can come together to
19 practice medicine, to share information.

20 I would like to talk about the doctor shortage on
21 Maui. It is estimated that we are down 94 physicians on
22 Maui, and I will only speak for pediatrics because that is
23 my area of expertise. All the private physicians on Maui
24 that practice pediatrics, I am the baby at 52. Everybody is
25 in their late 50's and will be retiring in the next five to

1 ten years. That means that we need new physicians. There
2 is nobody on the horizon, nobody that has come to look at
3 any of the practices on Maui that wants to stay here. It is
4 no wonder. We have facilities that are falling down. We
5 need updated medical facilities to attract new young doctors
6 to Maui.

7 We need a building that can house an urgent care.
8 Anybody that has gone to the ER and suffered through a
9 three- to four-hour wait there for an ear infection, a
10 broken arm, a sore throat, knows that we need a medical
11 facility where people can get care at night that would have
12 a pharmacy, a lab and an x-ray. It is appalling that a
13 community of this size does not have an urgent care to serve
14 our people at nighttime.

15 I believe -- I do not believe that malpractice
16 and/or the reimbursement of physicians is the reason that
17 there are no physicians here. The Maui -- the buildings for
18 medical personnel has stagnated. We don't see anything in
19 Lahaina. We don't see anything in Kihei. No new hospitals,
20 no new urgent cares, and no new medical facilities for
21 doctors to work. I would urge you strongly to support this.
22 It's not really about us. It's about our keiki. It's about
23 our young people that in ten years are going to need
24 physicians and are going to need new facilities. Thank you.

25 CHAIR HIRANAGA: Questions, Commissioners?

1 Commissioner Wakida.

2 COMMISSIONER WAKIDA: Good morning. Thank you for
3 coming. I have a question about urgent care clinic. Are
4 you envisioning this as to be created and operated by a
5 private enterprise?

6 DR. FOX: As far as I know, there is a private
7 enterprise that wants to put in an urgent care. It may not
8 be in its own space. It may be in like a pediatric space,
9 and at nighttime, is run by an urgent care. That way, they
10 can get the care they need and be referred back to the
11 doctors in the area the next morning.

12 COMMISSIONER WAKIDA: Thank you.

13 CHAIR HIRANAGA: Questions, Commissioners?
14 Commissioner Lay.

15 COMMISSIONER LAY: Good morning. I have a
16 question for you. You work with children, right?

17 DR. FOX: Uh-huh.

18 COMMISSIONER LAY: With this medical facility
19 being next to a sanctuary where it's peaceful and calm, do
20 you think this might help with your patients coming there --

21 DR. FOX: With what, I'm sorry?

22 COMMISSIONER LAY: With your children coming to
23 this facility, if you have a spot there, do you think it
24 will put them in a better state of mind because the
25 environment being a little calmer next to a sanctuary where

1 not so hostile, I should say?

2 DR. FOX: I would like to believe that. I don't
3 know. When you're coming to the doctor, you're already
4 pretty darn nervous, so maybe the pond would be a nice
5 thing.

6 COMMISSIONER LAY: The pond, birds flying around.
7 Thank you.

8 DR. FOX: Uh-huh.

9 CHAIR HIRANAGA: Any other questions? Seeing
10 none, thank you. Commissioner Mardfin.

11 COMMISSIONER MARDFIN: Just because of that
12 question, I'll ask something. Your argument is for a new
13 medical facility, not a new medical facility at this
14 location; is that correct?

15 DR. FOX: I would say that I have now been here 12
16 years, and I have not seen anybody propose a medical center
17 where doctors can be together and work. And so, I am for --
18 I want -- I see somebody that has a vision to build a
19 medical center, and I'm all for it. Because no one else has
20 come forward with another vision to improve that.

21 COMMISSIONER MARDFIN: So, there's nothing unique
22 about this location that makes any real difference, except
23 that it would be built?

24 DR. FOX: Except that it would be built, that's my
25 position.

1 CHAIR HIRANAGA: Any other questions,
2 Commissioners? Seeing none, thank you. Next individual is
3 Leslie Kuloloio.

4 MR. KULOLOIO: Good morning, Chairman and
5 Commissioners. My name is Leslie Kuloloio. I had two
6 subjects to talk about, but I'm going to defer one of them.
7 And both is important for me, but I want to talk on the one
8 that is most important to me. And that is the approval of
9 the Maui Medical Plaza. Thank you.

10 I'm here to ask that the Commissioners approve
11 this project. As the kupuna that has been part of the
12 Kahuna La'au Lapa'au, the mechanism of reaching our native
13 people and giving them health care, medicine, things of
14 healing the human body. It is time that we have a place
15 like this, this medical plaza to be incorporated, very
16 interesting, very, very interesting to be incorporated part
17 of a place that is using the name which is somewhat
18 sometimes haole or Hawaiian depending on how you olelo
19 Hawaii, sanctuary or zone or habitat.

20 So, I just wanted to say this place of sanctuary,
21 part of our history, somebody did not malama. Today
22 somebody did not malama, since the last time I came to you
23 folks in this room. So, it's all about kuleana. I have
24 been monitoring these members of this kauka, these doctors,
25 because I wanted to find out their attitude. I wanted to

1 find out their engineers and how they would incorporate a
2 setting, a place for a hale hooponopono, a place to heal the
3 sick, things of the mind; hale hooponopono kino, things of
4 the physical body; hale hooponopono au pono, things of
5 spirituality, at a place where it's so contradiction. They
6 got things how to handle the pollution over their heads.
7 It's part of planning. Things to handle shoreline
8 considerations.

9 Things to handle the sewage that has been already
10 planted there by good planning, by good planning, by experts
11 of the federal, state and county. Good planning. The kaka
12 is right next to this pond. Good planning. So, here we
13 need to incorporate a place of healing again. I love when
14 you open the door, bring our kupuna in, our keiki looking
15 out to the pond and see this is what it used to be. This is
16 what it used to be. This is our kupuna; the fish, the
17 birds. And this kind of project will trigger, trigger they
18 call that miki, it will trigger attention. It's time to
19 trigger attention, and this project will trigger the
20 attention. It's needed.

21 It's needed, and I totally support this. I
22 totally support this. Thank you.

23 CHAIR HIRANAGA: Questions, Commissioners. Seeing
24 none, thank you. Next individual is Brett Gobar.

25 MR. GOBAR: Good morning, Brett Gobar. 13214 Kula

1 Highway in the middle of the Ulupalakua Ranch. I'm here
2 primarily to speak on the Auwahi Wind Farm in support, but
3 my background is in energy resources, water quality, and I
4 have some experience in land use planning back in
5 California.

6 I'm relatively new here, so please forgive me if I
7 misstate any facts. I would support the medical center
8 anywhere but near your wetlands. You're losing your
9 fisheries here, because you're ruining the nesting grounds
10 for the fish to reproduce small fish. You've got to find
11 another place for your medical center. It's very important
12 to your fisheries here. Regarding the wind farm, I
13 definitely support the wind farm. It should be bigger as
14 was originally planned with water storage tanks up on the
15 mountain to store water that can be run through
16 hydrogenerators when there is less or no wind. Should be
17 bigger, okay.

18 I'm not sure why it was reduced in size. I
19 support geothermal energy also. I attended the hearing at
20 the ranch a few months ago, which I understood was part of
21 the environmental impact statement process to provide public
22 input. I supported it then. I support it now. I did
23 understand the Ulupalakua Ranch, Sumner Erdman, who I admire
24 and Sempra Energy's representative to state that the road
25 from Keokea to the project site in Auwahi is unsafe for

1 vehicles in general. There was a very nice local guy from
2 Wailuku who wanted to see the road built from the Wailea
3 area up to the ranch. And Sumner told him the State or the
4 County said the road from Keokea to the ranch is unsafe,
5 okay.

6 It would take many millions of dollars to make
7 that road safe. This would be required if they ran the road
8 from Wailea up to the ranch. Sumner said the ranch would
9 donate that property if such a road would go in, but there
10 are no funds to improve an unsafe road from Keokea to the
11 ranch. So, I understand from my neighbors recently now
12 there's some conversation of having the construction travel
13 from Keokea on Highway 37, which changes numbers to 31, I
14 think.

15 If that's the case, I would have to say you're
16 asking for a lot of traffic accidents when people try to
17 pass a concrete truck that can't fit on that road. So,
18 unless you have a lot of money to rebuild that road and
19 repair it when the construction is all over, I think the
20 Wailea route is a safer route. I think it's a straighter
21 route as far as curvy roads goes. I'm -- I don't know why
22 suddenly there's a change in sentiment on running it through
23 Wailea. I think it's, as someone said earlier, a ten-month
24 construction process, and then the traffic would be minimal
25 after that.

1 So, I live a mile north of the ranch office. And
2 I commute almost daily to farm there or to come down to
3 town.

4 COMMISSION SECRETARY: Three minutes.

5 MR. GOBAR: Thank you. May I briefly complete my
6 thought? I agree with the ranch in saying in the road is
7 unsafe. My neighbors have no trail to walk on, so we walk
8 on the road. You've got bicyclists there. You've got
9 tourists who are unfamiliar with the road. We've got
10 commuters from the ranch and my neighbors commuting on that
11 road, who their commute times would double if we had to be
12 stuck behind concrete trucks. And I think you would see
13 accidents and injuries, so you've also got commuters from
14 Hana who probably --

15 CHAIR HIRANAGA: All right. Thank you very much.
16 Questions, Commissioner? Commissioner Mardfin.

17 COMMISSIONER MARDFIN: I'm from Hana. So, would
18 you continue your thought about at least the impact on Hana?

19 MR. GOBAR: Yeah. I've been out to Hana a few
20 times, and I see there's a lot of folks there that come
21 around the back way through Ulupalakua Ranch. The road is a
22 challenge, and I would like to state that the geothermal
23 project has not been considered in the EIS for the ranch
24 wind farm. So, I think you need to reject the current EIS
25 and until it addresses the cumulative traffic impact of the

1 geothermal project that's coming down the road.

2 COMMISSIONER MARDFIN: Thank you.

3 CHAIR HIRANAGA: Sir, there's a question from
4 Commissioner Wakida.

5 COMMISSIONER WAKIDA: Thank you for testifying
6 this morning. Just a clarification. I didn't quite catch
7 where you said you lived in relation to this project.

8 MR. GOBAR: Do you know where the vineyard is?

9 COMMISSIONER WAKIDA: The Tedeschi?

10 MR. GOBAR: I live next to Martin Diamond. I'm at
11 13214 Kula Highway about a mile north of the ranch office
12 and the Upcountry Store.

13 COMMISSIONER WAKIDA: Thank you,

14 MR. GOBAR: Thank you, ma'am.

15 CHAIR HIRANAGA: Next individual, Randy Piltz.

16 MR. PILTZ: Good morning. My name is Randy Piltz.
17 I live at 376 West Waiko Road, and I'm testifying in behalf
18 of the Sempra Wind Farm. I support it. I'm one of the
19 owners of land in the area of mo'omuku. I have about 48
20 acres. And I think when I first came back in 1973 to Maui,
21 I wanted to build a home up in mo'omuku. There was no
22 water, no electricity, and no roadway. By having this wind
23 farm, I'll have at least one-third of what I wanted. At
24 least we'll have power, getting close to it.

25 And, you know, we're concerned about the power

1 that we need and what we're trying to do is get off of oil.
2 So, why not? We have one wind farm, and I really think the
3 wind farm that's going in at Ulupalakua Ranch should be a
4 lot bigger.

5 And I understand that the geothermal people are
6 looking at also coming in and making the wind farm a firm
7 power. So, I urge each and every one of you to pass this.
8 Being a member of the construction industry for over 30
9 years, this will put people back to work and like we need it
10 right now. So, I urge each and every one of you to support
11 the wind farm.

12 CHAIR HIRANAGA: Questions, Commissioners? Seeing
13 none --

14 COMMISSIONER MARDFIN: Yes.

15 CHAIR HIRANAGA: Commissioner Mardfin.

16 COMMISSIONER MARDFIN: You started off by saying
17 -- you live near where the wind farm is to be?

18 MR. PILTZ: No, I live in Waikapu. I wanted to
19 live up there.

20 COMMISSIONER MARDFIN: You wanted to live up
21 there?

22 MR. PILTZ: Yes.

23 COMMISSIONER MARDFIN: You seemed to imply this
24 would provide electrical power to the community.

25 MR. PILTZ: Definitely.

1 COMMISSIONER MARDFIN: I think the statements say
2 that it will not. The statements say that they will not be
3 going out of there. They want to send it straight into
4 MECO.

5 MR. PILTZ: It will be a lot easier for me to get
6 power once it's in.

7 COMMISSIONER MARDFIN: I don't understand how it
8 will. Can you explain why it would be easier?

9 MR. PILTZ: Well, right now, they have to build a
10 road, okay. Along that road, they'll have an access going
11 through there. They'll have to have that road left open, so
12 that now I can get to that piece of property. And at my age
13 right now, I don't believe I'm going to build a home for
14 myself. But I do have children and grandchildren that could
15 use that piece of property up there.

16 And eventually, we'll have water available, and we
17 could probably drill a well.

18 COMMISSIONER MARDFIN: Thank you.

19 CHAIR HIRANAGA: Commissioner Shibuya.

20 COMMISSIONER SHIBUYA: Randy, can you tell me how
21 close to this development is your property that you're
22 talking about potentially developing?

23 MR. PILTZ: Well, right now, if you take Big Beach
24 and go about a half a mile or a mile up and you look down on
25 Big Beach, so we're still a couple of miles away from that.

1 COMMISSIONER SHIBUYA: Okay. Thank you.

2 CHAIR HIRANAGA: Any others questions? Seeing
3 none, thank you. Next individual is Peter Chin.

4 DR. CHIN: Good morning, Chairman Hiranaga and
5 Council Members. My name is Peter Chin. I'm an
6 anesthesiologist physician. I don't have any connection at
7 all with the Medical Maui Plaza, but I would like to testify
8 on behalf of them. I moved over here from Honolulu over 20
9 years ago. And the reason why I moved over here was because
10 the environment and the lifestyle.

11 So, I'm very sensitive about, you know, the hoary
12 bat and the stilts and everything else because that's part
13 of why I came here. But we also have to be cognizant of the
14 fact that we need other things for our families; health
15 care, schools, and so on. And so, that's why I'm testifying
16 in favor of the medical plaza. It's true that there are
17 reasons why other people, physicians don't come here. The
18 high cost of living, medical insurance is very high.

19 But one of the major reasons they don't come here
20 is just because we don't have the infrastructure for the
21 offices. They come here to take a look at the office
22 buildings, and they're used to very modern equipment. They
23 come from residency programs. They have state of the art
24 everything, and then they come over here and they don't see
25 that. And so, one of the things we need to do to encourage

1 them to come here and stay here, recruit and retain these
2 people from Honolulu and from the mainland is to give them a
3 facility where they can feel proud to put up their shingle
4 and see patients. So, we definitely have a shortage. I
5 don't think anybody disagrees, and this would be the place
6 to do it. I'm not an environmentalist. I'm a Sierra Club
7 member, but I'm not a specialist, you know, on these
8 endangered species. And if the Army Corps of Engineers says
9 that it's okay, then I will just have to go with them.

10 Just like I'm not a cardiologist. I don't pretend
11 to know anything about that.

12 CHAIR HIRANAGA: Questions, Commissioners?
13 Commissioner Mardfin.

14 COMMISSIONER MARDFIN: If this building were
15 built, you would move into it?

16 DR. CHIN: No, I wouldn't. I am in no way, shape
17 or form related to that building at all. I'm just thinking
18 of the community as a whole and how we can improve the
19 health care of the community.

20 COMMISSIONER MARDFIN: Do you have any particular
21 reason why you wouldn't move to it?

22 DR. CHIN: Well, I'm an anesthesiologist, so they
23 would have to set up a whole operating room. And they're
24 not prepared to do that. So, I practice at Maui Memorial.
25 I go to Queen's Medical Center. I'm here at the Aloha

1 Surgery Center where they have OR's.

2 COMMISSIONER MARDFIN: Thank you.

3 CHAIR HIRANAGA: Any other questions? Seeing
4 none, thank you. Anyone else wishes to testify at this time
5 on any agenda item, please come forward. Please state your
6 name.

7 MR. AMPONG: Aloha. Good morning, Commissioners.
8 My name is Foster Ampong. I'm originally from Lahaina
9 living in Wailuku. I want to testify on the item regarding
10 Auwahi, the request to approve the final EIS. I believe at
11 this time that the EIS shouldn't be approved primarily as
12 you probably received my written testimony that I sent out
13 on Friday. There are a couple of items that I'm pointing
14 out.

15 The basis for my opposition to approving this EIS
16 is simply because there appears to be a couple of trigger
17 events within this project that should have initiated a
18 Section 106. I'm specifically talking about the mandates
19 covered under the National Historic Preservation Act of
20 1966, whereupon there are certain criterias that would
21 trigger this mandate and the environmental impact study
22 would have to address regarding Native Hawaiians. One of
23 the trigger events is that -- and I've provided this in my
24 documentation, my testimony -- is that in 2009, Sempra had
25 submitted a proposal to the Department of Energy requesting

1 cofunding for their battery system.

2 Therefore, that alone is requesting federal
3 funding, which is one of the criterias for this trigger
4 event. The second trigger event is that through -- to the
5 U.S. Wild Life and Forestry Division and DOFAW, the project
6 is requesting a incidental taking license and incidental
7 taking permit. And again, it's another criteria that would
8 trigger Section 106.

9 And so, these are the reasons -- in my testimony,
10 I started to go into a third item, but in hindsight what I
11 didn't articulate fairly well, and again, I'm saying this in
12 hindsight is that it's relevant and related to the first
13 two, and that is my personal relationship with my culture
14 and my religion and that when I looked at the draft EIS and
15 I noticed that the study listed down all the various animals
16 and insects and wild life, I didn't see anything about the
17 'iwa or the frigatebird. And for my family, speaking just
18 for myself, the 'iwa is one of my aumakua kinolau. And so
19 being that they're putting up I believe 12, 13 windmills and
20 they would reach and extend to the height of 450 feet, no
21 one is addressing that. And that's why I did that. Thank
22 you.

23 CHAIR HIRANAGA: Thank you. Questions,
24 Commissioners? Commissioner Wakida.

25 COMMISSIONER WAKIDA: Hi, good morning. Thank you

1 for coming. You stated that one of the triggers for the EIS
2 was federal funding, and then you mentioned something about
3 the National Historic Preservation Act. However, I thought
4 that this EIS was triggered if the project was in a national
5 historic area.

6 MR. AMPONG: That's one of the criterias. As I
7 said, what I meant to say there are several criterias that
8 are specific in triggering a Section 106 protocol. One of
9 them is as you stated. Another is being, the project being
10 built on federal lands, and another one is if there's any
11 federal funding being used for the project as well as any
12 license or permitting from a United States agency, a federal
13 agency.

14 And so I see the two, these two events. And as I
15 said, I provided a copy of the -- the published article in
16 2009. I guess Sempra or Auwahi Wind Farms can better
17 address that. You know, but I'm looking at the EIS, and so
18 for that reason, I'm saying, no, I'm not in support of this
19 final EIS being approved at this time. You know, and this
20 issue about the Section 106 was brought up in last month's
21 Burial Council, and it is my understanding that SHPDA is
22 looking into this and following up with the wild life
23 division as well as within their own department.

24 So, there is a question, and it needs to be
25 addressed. You know, we need to really look at it and find

1 out, you know, is there -- are there these trigger events.
2 And just based upon my review of the draft EIS, I'm at the
3 conclusion that there is trigger events that should have
4 happened.

5 COMMISSIONER WAKIDA: Thank you.

6 MR. AMPONG: Thank you.

7 CHAIR HIRANAGA: Any other questions?

8 Commissioner Shibuya.

9 COMMISSIONER SHIBUYA: Foster, can you tell me
10 about 'iwa, where does this habit, and where does it
11 normally locate, and what kind of flight patterns can we
12 expect from that bird?

13 MR. AMPONG: Okay. I can both give you what I was
14 taught by my family, my kupunas, my parents, my aunties.
15 And I also am willing to share my own personal experience in
16 regards to that specifically of the area of Kahikinui and
17 Auwahi. The 'iwa is -- I believe the haole version is
18 frigatebird, you know, the frigatebird. And they're cliff
19 dwellers, so many times you find them living in the cliffs,
20 in the caves. But also, growing up in Lahaina as well as
21 living here in Wailuku and in Kahakuloa, I've also seen them
22 quite frequently along the coastline, you know, along the
23 Kula plains up in the mountains.

24 In Auwahi and in Kahikinui in the last 15 years,
25 I've had numerous personal experiences, and you know, people

1 who don't really understand our religion, and when I say
2 our, I'm talking about our -- my Hawaiian religion, my
3 culture, my belief. Our 'aumakua is very, very sacred and
4 special. And each family has their own -- see, the 'aumakua
5 is not an animal or a bird. When I talk about the 'iwa, I'm
6 talking about the kinolau or the physical body that my
7 ancestor will commune with me.

8 And as I stated, I'm willing confidently and fully
9 to share this with the Commission. But this is an area
10 that's very deep and personal for me. So, you know, I'm
11 willing to share with the Commission, but I'm hesitant and
12 reluctant to publicate, you know, come and share this
13 experience. But Commissioners, to answer your question, the
14 'iwa does -- is known and I've seen it myself numerous
15 occasions in Auwahi in Kahikinui flying, traversing, and as
16 I've said in my testimony, as close as 50 feet above me.

17 And so, when I think about the windmills extending
18 up 450 feet into the air and knowing through my own personal
19 experience being at Kahikinui and Auwahi that I have
20 concerns that the windmill is going to impact them gravely,
21 you know. And so, the Section 106, had it been initiated
22 early on in this process, I would have been notified.
23 Because as you are aware, I've been involved with the ATST
24 in the discussions, and I would have definitely come forward
25 and engaged in this matter. So, that's why I included that

1 section, yeah.

2 My wife really gave me hell for that saying just
3 stick to the facts. So, I said, no but it's related. So,
4 sorry. Okay. Thank you.

5 CHAIR HIRANAGA: Any other questions?
6 Commissioner Lay.

7 COMMISSIONER LAY: You had mentioned that one of
8 the triggers for 106 was they get federal funding, right?

9 MR. AMPONG: Yes. One of the triggers is
10 receiving federal -- federal funds from a federal agency.

11 COMMISSIONER LAY: But not requesting, right?

12 MR. AMPONG: Right. Well, obviously, semantically
13 when you look at that, Sempra put in the proposal, so I'm
14 taking that at face value. I don't know whether that's the
15 case or not. And as I stated earlier, Sempra could probably
16 be the one to clear that up right now. And I've made
17 inquiries, and I have not received, you know, any definitive
18 answer. You know, pretty much people didn't know, but they
19 were trying to guess. I want to be really certain about
20 this.

21 Because of that article, because it's out there, I
22 haven't received a definitive answer yet.

23 COMMISSIONER LAY: So, if they haven't received
24 any federal funding, then --

25 MR. AMPONG: Well, it would address Sempra putting

1 in a proposal to the Department of Extinction. And so,
2 yeah, that would be clear cut. But I'm -- you know, I'm
3 looking at is this project receiving any federal funding.
4 The fact that this is an alternative energy project, right
5 off the bat, I'm thinking, okay, does that mean they're
6 going to claim some kind of tax exempt, because -- you know,
7 tax deduction, because it will be alternative energy.

8 And so, in one sense, I'm thinking isn't that kind
9 of like, you know, I know it's a stretch, but I can't help
10 but think if it's an alternative energy venture, and there's
11 the presumption they will claim on their taxes tax exempt, I
12 believe, and I feel that that constitutes receiving some
13 form of federal funding.

14 CHAIR HIRANAGA: Commissioner Mardfin.

15 COMMISSIONER MARDFIN: Your argument seems to be
16 that since they're going to get a tax break, that's, in
17 effect, federal financial assistance?

18 MR. AMPONG: That's what -- one of the rationales
19 that I'm answering the other Commissioners. But the first
20 two items is what I'm basing my request that the final EIS
21 not be approved now this time. I'm not against it
22 eventually, you know, being accepted.

23 COMMISSIONER MARDFIN: Hang on. Let me get my
24 question out, if you please. What you want them to do is to
25 fulfill Section 106 of the National Historic Preservation

1 Act; is that correct?

2 MR. AMPONG: What I'm addressing is, okay, when I
3 looked at your agenda, on the agenda, Auwahi Wind Farm is
4 requesting that the Commission at this time approve the
5 final EIS.

6 And so, what I'm requesting -- I mean what I'm
7 saying and communicating to the Commission that with this
8 final EIS as is, I believe that it's unwarranted, it's -- to
9 give this final approval, because of these concerns, because
10 of these issues that I'm raising.

11 COMMISSIONER MARDFIN: What is it that you want
12 them to do before -- if you were sitting in my place, what
13 is it that you want them to do before you would vote for
14 approval?

15 MR. AMPONG: I would want them to initiate Section
16 106.

17 COMMISSIONER MARDFIN: Okay. That was my point.
18 You want them to work with Section 106 with the National
19 Historic Preservation Act?

20 MR. AMPONG: Right.

21 COMMISSIONER MARDFIN: Thank you.

22 CHAIR HIRANAGA: Any other questions? Seeing
23 none, thank you. Anyone else wishes to provide testimony,
24 please come forward.

25 MR. KITAGAWA: Good morning, Ladies and Gentlemen,

1 Commission Chairman and Members of the Planning Commission.
2 My name is Michael Kitagawa, known as Mike Kitagawa, the big
3 mouth from Kahului. I've been in business on Maui for 39
4 years. And I'm currently an owner of the adjacent
5 properties to the applicant, Maui Medical Plaza, and its
6 intention to construct a medical facility at the Kanaha
7 industrial subdivision. My subdivision lots are Lot Number
8 6 and Lot Number 7, which comprises the wetland pond and the
9 applicant is Lot Number 8.

10 We are all part of the Kanaha Industrial Park,
11 which was established in 1996 and revised in 1997, May 12,
12 1997. The properties in question are all zoned M-2, heavy
13 industrial. And we are in a Flood Zone C, which is not
14 really affected by tsunamis. I have to tell you that we --
15 as you know, we had a recent tsunami, and we had just one
16 adverse affect. I couldn't even get there, because the
17 police wouldn't even let me onto my property. But I sit
18 adjacent to Maui Oil and the Gas Company, and I couldn't
19 even get to my property to make sure that our office was
20 okay or the cars were okay.

21 But, for example, we're all concerned about
22 floods, flooding and zoning and flood control. We have no
23 control over Mother Nature. As it turns out, the flood came
24 right through Kahului through Puunene Avenue. And somehow
25 through tributaries of water that's from the drainage

1 systems and through the Kahului industrial area, water
2 eventually got into the drainage canal. Lot 6 -- Lot 7,
3 which is one of the adjacent properties includes 3.2 acres
4 of property. I bought the property from Mr. Lloyd Kimura in
5 2008, and we have no plans to develop the property or
6 anything. But I just wanted to buy the property for access.
7 But I'm just letting you know that I do own the entire body
8 of water that surrounds Lot 8 and my Lot 6, which is a
9 drainage canal. I paid for 3.2 acres, and I've got maybe
10 30,000 square feet of actual land.

11 But just be informed that this entire project was
12 zoned M-2 heavy industrial. This is done way in the 1990's,
13 and we just are trying to develop the property as best as we
14 can. I've been here before you and was here before you in
15 2006. I got a major SMA approved by this fine Commission.

16 COMMISSION SECRETARY: Three minutes.

17 MR. KITAGAWA: And I would like to say that things
18 are moving along, but basically it's on hold only because of
19 the difficulty in obtaining financing for my full project.
20 But I speak highly in full support of this project. They're
21 trying to do a heck of a job. Went through Army Corps of
22 Engineers, same thing as I did, all the hoops with the Urban
23 Design Review and the whole nine yards.

24 CHAIR HIRANAGA: Thank you. Questions,
25 Commissioners? Seeing none, thank you. Anyone else that

1 wishes to provide testimony at this time, please come
2 forward and identify yourself.

3 MS. DeNAIE: May I just give copies to -- just
4 take two sheets each. Thank you, Chair Hiranaga and nice to
5 see everybody again. My name is Lucienne DeNaie testifying
6 on behalf of Sierra Club Maui Group as the conversation
7 chair. I'm passing out some comments that have been brought
8 up about the draft EIS. Now, since the final EIS is not on
9 line, it's hard for anybody from the public to know whether
10 those would be addressed or not. So, I guess that's your
11 folks' job to give your recommendations, see if those things
12 have been met. So, I thought I would just, you know, give
13 you the wrap sheet here and bring a few to your attention,
14 and hopefully, most of these have been addressed. But in
15 case they haven't, now is the time for the Commission to --
16 I think you have two choices. One is to just approve the
17 final EIS today and say, great, looks great to us.

18 The other is to say we really like it, but these
19 things need to be addressed, and please bring it back to us
20 after they're addressed so that we can make our decision and
21 approve it. Sierra Club has been tracking a number of
22 energy issues statewide, and I service the head of that
23 committee. And in general, wind farms, we need them.
24 They're really an important part of our future. Our only
25 concern is that they be done as best as possible, because

1 once the standards are set, you don't want to start having
2 everything go downhill. You want standards to keep
3 improving over time. Some of the key points that we made in
4 the DEIS about the biological survey is that it seems that
5 some parts of it were fairly thorough, and others were not.
6 For instance, it didn't report that there was any survey
7 during the wetter months, only the drier months. And we
8 know that many of the creatures do live with the cycles of
9 nature, so especially the plants.

10 Plants appear during the wet season that are not
11 seen during the dry season, so if that has not been
12 addressed, if there's not an additional survey during the
13 wet months, it would be good to have that included so that
14 we really know what we're dealing with. Another thing about
15 the plants is that there really weren't numbers given how
16 many of the native wiliwili or 'ohe makai or alahe'e or some
17 of these very rare or endangered plants; whereas, other
18 biological surveys, you see actually give estimates of
19 numbers and so forth and so on.

20 It also wasn't discussed, you know, how exactly
21 the mitigation was going to be done. There was the mention
22 that funding was going to be given to the Auwahi Restoration
23 effort, which is a wonderful effort, but would that funding
24 be used to then expand the preserve area? How is it going
25 to be that these plants are wiped out? We don't really know

1 from the draft EIS, and I'm hoping this has changed in the
2 final EIS, how many of these native species are likely to be
3 eliminated, and if they are, is there going to be any
4 expansion of the habitat in the Auwahi Preserve. It just
5 mentions that funding will be given, and that's great, but I
6 think it would be good to know how that funding is going to
7 benefit these species. As far as the general approach, we
8 have Kaheawa as a prototype, and in Kaheawa, there was not
9 only a habitat plan done for the plants and the birds and
10 other animals, but there is a volunteer group that is
11 working on the site to restore just above the impact area.

12 So, this is kind of equivalent the Auwahi, and I
13 think it needs to be better explained. The Auwahi Preserve
14 is quite a bit higher than the wind farm site. Is the
15 habitat area going to be extended down lower for the plants?
16 And I think that would be an improvement. Also the
17 Blackburn Sphinx Moth, also endangered, it will be part of
18 the habitat conservation plan. Hopefully, there's more
19 details given about that in the final EIS. There are two
20 critical habitats for this moth. And this moth is
21 endangered in part because its food source has gotten more
22 limited. It's adapted to the wild tobacco plant, but its
23 native food source, the aiea plant, is also present on this
24 site, which is very rare.

25 Also, once -- and that's just for the caterpillar

1 stage. Once it becomes a moth, it needs different things to
2 eat and those type of plants. It only feeds at night. It
3 feeds on plants that are white and scented. So, I hate to
4 get into details, but I think a few more details are needed
5 here, and hopefully, they're in this final EIS. But if
6 they're not, I would urge you to ask for them.

7 As for the archeological --

8 CHAIR HIRANAGA: Thank you, Lucienne.

9 MS. DeNAIE: Thank you.

10 CHAIR HIRANAGA: Questions, Commissioners? Seeing
11 none, is there anyone else that wishes to provide testimony?
12 Please come forward.

13 MR. WAITE: Hi, good morning, Chairperson, Council
14 Members. My name is Christopher Waite. I'm born on Maui,
15 raised in Kula. I am here to talk about the Auwahi Wind
16 Farm. I am currently an employee of Ulupalakua Ranch. Was
17 lucky enough to get that job after receiving a bachelor's of
18 science from the University of Hawaii for agriculture and
19 forestry. And at the time with limited jobs, I pursued the
20 construction field for a private contractor. And as we all
21 have seen, contracting, there's not been too many jobs going
22 on right now. And again, getting a permanent job with
23 Ulupalakua really helped secure my future.

24 And I'm hoping this wind farm will help secure the
25 future of the jobs that are currently with Ulupalakua Ranch

1 and maybe create some new ones. And maybe a little bit on
2 the personal note, something sustainable as wind farms
3 helping Maui move forward into the 21st century and reduce
4 its need for fuel, especially from other countries really
5 puts hope for me to see to have happen and really look
6 forward to the future of Maui. And hopefully, this wind
7 farm will help it move forward. That's all I have to say.
8 Thank you.

9 CHAIR HIRANAGA: Questions, Commissioners? Seeing
10 none, thank you.

11 MR. WAITE: Have a good day.

12 CHAIR HIRANAGA: Anyone else wishing to provide
13 testimony at this time? Please come forward and identify
14 yourself.

15 MS. KAMAUNU: Aloha, I'm Johanna Kamaunu. I'm a
16 resident of Waihee, and I'm here to talk on two things.
17 First of all, the Auwahi Wind Farm. I was at the Burial
18 Council earlier this month, or was it last month, that dealt
19 with a burial treatment plan for the Auwahi Wind Farm. And
20 some serious questions were raised. One of the things that
21 we learned in that meeting was that a permit had been
22 received of the federal government to do this wind farm, and
23 that was a question that started us on the 106 process.

24 The 106 process, as per the Advisory Council
25 Handbook, says that anytime there's an involvement with

1 cultural or religious items, that a Native Hawaiian group
2 must be consulted with. Is it must? I'm not sure what word
3 they use nowadays, but that's the reason for the process.

4 Now, they achieved -- the handbook says that this
5 is more for agencies and how they are to deal with Native
6 Hawaiian organizations. So, our question here was whether
7 or not the mechanism had been activated by acquiring a
8 permit from the federal government. We felt that it had
9 been and that they should have enacted the 106 process,
10 which had not been addressed at all.

11 And I believe that if you don't have this as part
12 of the EIS, then how can you say it's a complete process.
13 And that's the only argument I had at this point for them.
14 I unfortunately for some am not in favor of the wind farm,
15 and I have my reasons for that, but I would like to see us
16 move into the 106 process, okay.

17 The other item I had to talk about I'm unprepared
18 for, and that is what's happening at Kanaha. And I
19 understand that there are plans for subdivision and things
20 to be built there. But I feel impressed at this time to
21 share a little bit of the history of Kanaha Pond and that we
22 need to remember that it was created so that it would feed
23 Maui. Two huge fish ponds were built at the expense of
24 thousands of people, men lining the roads with a path from
25 Kanaha to Iao to pass hand to hand the rocks that would

1 build that fish pond. And it was such a hard task that
2 there wasn't enough food to feed the people or the men that
3 came to work there.

4 There were time there would only be opae for the
5 day's meal. And I'm remembering these kinds of things, and
6 unfortunately the pond is not fulfilling what it was meant
7 to fulfill and what it was producing for Maui years ago.
8 And unfortunately, we're in the situation where we have to
9 depend on commercial fishing, on stores, on shipping when we
10 actually have all the means to provide for our needs here.

11 COMMISSION SECRETARY: Three minutes.

12 MS. KAMAUNU: So, as I see this development move
13 forward, I'm somewhat disheartened that we are moving
14 towards this type of development and not moving back towards
15 becoming more really self-sustaining. Thank you.

16 CHAIR HIRANAGA: Thank you. Questions,
17 Commissioners? Commissioner Mardfin.

18 COMMISSIONER MARDFIN: Yeah, I have probably a
19 series. Let's start off with the Auwahi Wind Farm and the
20 106 process. What would the 106 process entail doing?

21 MS. KAMAUNU: What we were unable to address in
22 the Burial Council was the value of what is significant in
23 that area. The fact that an AIS provides a small percentage
24 of information as to what's already there can only suggest
25 that the rest is not known. We would like to have the

1 opportunity to discuss and understand what is all there,
2 because I believe that we don't have clear information.

3 I just believe the information that's come to us
4 is rushed, given the amount of time and understanding the
5 methodology for doing a really good job as to what is
6 archeologically significant there. I mean we know that
7 archeologists have spent years in studying the area, and
8 yet, they failed to get a full picture of what's there. We
9 have this wind farm's information come forward, and I'm not
10 saying they're poor archeologists. I'm just saying that
11 there needs to be a higher standard for archeology.

12 COMMISSIONER MARDFIN: This project is right next
13 to a large section be of Hawaiian Homelands?

14 MS. KAMAUNU: Yes.

15 COMMISSIONER MARDFIN: Does that have any impact
16 on those Hawaiian Homelands, and would the 106 process
17 explore that?

18 MS. KAMAUNU: I can't speak on behalf of Hawaiian
19 Homelands. What I can say is that anytime you impact
20 people, that should be a finding of significance there. And
21 for this place to be found to be no significant findings of
22 impact, I would be concerned if that was the result of this
23 study.

24 COMMISSIONER MARDFIN: If you went through the 106
25 process, do you have any estimate as to how much longer it

1 would take to develop the information necessary?

2 MS. KAMAUNU: The requirement is to sit down and
3 have a discussion with all and any Native Hawaiian
4 organizations that want to.

5 COMMISSIONER MARDFIN: Do you think we're talking
6 about two months? Do you think we're talking about two
7 years? Do you think we're talking about two decades or two
8 centuries?

9 MS. KAMAUNU: I guess that depends on what your
10 goal is. I really can't say. I would hope that they would
11 take some time to look into all our questions, but at the
12 same time, there's still a lot more that we don't
13 understand. And I'm sure we're probably just on the brink
14 of so much more knowledge to be discovered there. Some of
15 our concerns has to deal with I think the blasting that they
16 are saying will be part of their work to set up this wind
17 farm. And we know that there's lava tubes in the area.

18 And just the size of the equipment, besides the
19 blasting makes you want to ask that question, what's going
20 to happen when they start doing this. There's really no
21 guarantees.

22 COMMISSIONER MARDFIN: Thank you very much for
23 sharing your manao.

24 MS. KAMAUNU: Thank you.

25 CHAIR HIRANAGA: Any other questions? Seeing

1 none, thank you. Anyone else wishes to provide testimony,
2 please come forward and identify yourself.

3 MR. KAMAUNU: Good morning. My name is Kaniloa
4 Kamaunu. I'm from Waihee Valley. I'm here to speak on I
5 guess this project and the one up at Kahikinui. I speak on
6 behalf of the natives. My concern is we talk about, you
7 know, you guys are looking at laws. They give you guys law.
8 They go by what the parameters of the law to make their
9 project function supposedly.

10 And we have to look at the laws and also our
11 vested burials we're talking about. Because up in that area
12 are many burials. They've already told us that in the
13 Burial Council. And some of the things they're planning to
14 do, of course, the platform for one of these areas is 50
15 feet by 50 feet by 15 feet deep. And for them to get down
16 to 15 feet, they have to use explosives. Now, we're talking
17 about lava. And we're talking about cinder, which is very,
18 you know, it's how can I say it, it's not a structure that
19 you would, you know -- it's kind of almost like sand, I
20 would think, because you got many holes in between
21 everything, so many air pockets.

22 So, what they've found already, how is that going
23 to disturb -- I mean I'm looking at 50 feet. That's bigger
24 than this room that we're sitting in, and we're talking
25 about 15 feet deep. That's only the bottom. We're not

1 talking about how actually high this thing is. They're
2 talking about the base being 200-and-some-odd feet, at its
3 pinnacle with its fins on, it's 400-and-some-odd feet.
4 250-some-odd acres of this thing on Haleakala, which is
5 supposed to be a historical site. The federal government
6 already has a national park there. They charge for the
7 national park. But we're not only contending with that,
8 we're contending with a 14-story building for the telescope,
9 and that's not the only one. There's one more previous to
10 that, which is about six stories. It's nuts. This whole
11 thing is crazy.

12 But now getting back to the rights of the people
13 that are buried there, just because they're dead means that
14 they're expendable? In 1898, Congress had a debate an
15 naturalization or annexation of Hawaii. They couldn't do
16 it. They couldn't do it, because the Natives didn't want to
17 be part of the process. Kui petition. That's in there.
18 You want to read it? You can see the congressional debates
19 of 1898. Hawaiians still sovereign. Come to forward 1993,
20 the apology letter or Public Law 103.150 signed may I say by
21 two senators of this state.

22 COMMISSION SECRETARY: Three minutes.

23 MR. KAMAUNU: And by --

24 CHAIR HIRANAGA: Please conclude your comments.

25 MR. KAMAUNU: I'm going to. And by the President

1 of the United States. And in there it says, "Whereas,
2 Native Hawaiians never gave up their sovereignty." So,
3 hence, the people that you're disturbing now never and never
4 will give up their sovereignty. So the thing, it's your
5 fiduciary duties as a committee, a commission of this County
6 to make sure that the fiduciary duties protecting myself and
7 my kupuna as Native Hawaiians, which are still sovereign by
8 law, be taken care of. That's your job, not the economical
9 pockets that you're looking at here.

10 These guys have no vested rights. We do. Check
11 it out, because it's real. And it's going to come back to
12 haunt you.

13 CHAIR HIRANAGA: Thank you very much.

14 MR. KAMAUNU: Yeah. Mahalo.

15 CHAIR HIRANAGA: Questions, Commissioners?
16 Commissioner Mardfin.

17 COMMISSIONER MARDFIN: Yes. Are you urging also
18 that the 106 process go forward?

19 MR. KAMAUNU: Yeah, I mean -- well, you know, as
20 far as I'm concerned, my whole thing is if you want to talk
21 about laws, then you've got to include all the laws.
22 Because you're including all of us, so if you're going to do
23 that, you have to include all the laws that actually pertain
24 to us, whether it be 106, whether it be Kanawai or state
25 laws already instituted that protect our rights.

1 COMMISSIONER MARDFIN: Thank you.

2 CHAIR HIRANAGA: Any other questions? Seeing
3 none, thank you. Any other individuals wishing to provide
4 testimony at this time, please come forward.

5 Seeing none, we'll move on with the agenda. Item
6 B, Public Hearings. Director.

7 DIRECTOR SPENCE: Thank you, Mr. Chairman,
8 Members.

9 CHAIR HIRANAGA: I'm sorry, we'll take a
10 ten-minute recess.

11 (Recess taken 10:30 a.m. to 10:40 a.m.)

12 CHAIR HIRANAGA: I would like to call the meeting
13 back to order. Director.

14 DIRECTOR SPENCE: Thank you, Mr. Chairman. We're
15 on agenda Item B(1), Mr. Robert T. McDaniel, III
16 representing Kanaha Professional Plaza, LLC on an SMA
17 permit. Our staff planner this among is Mr. James Buika.
18 You're on.

19 MR. BUIKA: Good morning, Chairman Hiranaga and
20 Planning Commissioners, my name is Jim Buika with the
21 Planning Department. This first slide here represents an
22 outline of our presentation. First if it's with the
23 concurrence of the Chair, the Department will provide an
24 introduction to the project. I'll refer you to three
25 additional handouts of public testimony that I've received

1 since you've gotten the staff report. We'll talk about the
2 purpose of today's review, talk about the land use planning
3 context of the project and review some of the important
4 procedural issues. From there, I will turn it over to the
5 applicant to brief you on the project. And at that point,
6 we can return it back to the Chair for public testimony and
7 deliberation and questions if that's acceptable to the
8 Chair.

9 CHAIR HIRANAGA: Please continue.

10 MR. BUIKA: Thank you. First of all, I would like
11 to make you aware of two handouts. These were public
12 letters. One is dated -- one is an e-mail in small font
13 July 29th, 2011 that was e-mailed to the Planning Department
14 and, "Attention Chairman Hiranaga," signed by Susan Liscomb
15 on July 29th, a short e-mail and on July 28th, addressed --
16 a letter addressed to Mr. Kent Hiranaga, Chairman of the
17 Planning Commission signed by Jane Ornelas-Marshall, and
18 that's on July 28th.

19 And the third handout for you is an August 5th
20 letter to Mr. Kent Hiranaga, Chairman of the Planning
21 Commission, signed by Peter Horovitz and dated August 5th.
22 So you have those. I think all of you have those in your
23 possession. The purpose of today's review is for the Maui
24 Planning Commission to review the special management area
25 use permit application. A final environmental assessment

1 has been accepted by the Maui Planning Commission. The
2 final environmental assessment identifies potential impacts
3 to the environment and sets forth mitigation to minimize
4 impacts.

5 And you've seen that before, and much of the
6 Department report contains much of the discussion on the
7 impacts and proposed mitigation. The review criteria for
8 the SMA permit are listed in Section 5, applicable
9 regulations in your staff report on Pages 11 and 12. So,
10 that is your review criteria today for the project, Pages 11
11 and 12. And the Department's findings and analyses are
12 presented in Section 12, entitled Environmental Analysis
13 Special Management Area Criteria. And that findings and
14 analysis begins on Page 90 through Page 108, so as we go
15 through, you can find the analysis in those sections for the
16 various criteria.

17 And in that findings and analysis section, the
18 Planning Department also includes analysis of the Coastal
19 Zone Management Act objectives and policies. As far as
20 completed environmental reviews, the completed environmental
21 reviews for the project are summarized in Section 4 of the
22 Department's report; Regulatory framework, including federal
23 permission to develop a parcel that contains .94 acres of
24 jurisdictional wetlands.

25 It discusses the Department of Army permit and

1 related approvals very briefly and the Environmental
2 Assessment Chapter 343 process HRS that has been concluded.
3 Today's SMA major use permit application is being reviewed
4 by the Commission following the concluded environmental
5 assessment process.

6 The EA process was concluded in July 2011
7 following publication of the finding of no significant
8 impact determination. So, I will proceed with the land use
9 planning context here. First, project location. Kanaha
10 Professional Plaza, LLC proposes the development of a
11 professional medical plaza also referred to as the Maui
12 Medical Plaza at Kanaha in Kahului, Maui, Hawaii.

13 The project site identified by Tax Map Key
14 (2)3-7-011:028. It's Lot 8, and part of the Kahului Harbor
15 Industrial subdivision. The property encompasses
16 approximately 2.5 acres of land and is known as the Kanaha
17 Professional Plaza, LLC. The project site is located makai
18 of the Hana Highway in the Kahului Harbor heavy industrial
19 area. Access to the site is proposed to be provided via
20 Hana Highway. And land uses in proximity to the project
21 site include heavy and light industrial uses, retail
22 facilities and automobile dealership. There is no
23 residential in the area.

24 The property is located about a mile from the
25 Kahului airport, the island's major airport, and is about

1 2,500 feet from the shoreline, so it is not a shoreline
2 property. This is an aerial photograph of the location.
3 You can see it's in the -- the project site is located here
4 in green. The black outline is the Kanaha Industrial
5 Subdivision 2, and this is Lot 8, the project site. You can
6 see everything on this aerial photo is either industrial or
7 retail business district.

8 We have the wastewater treatment plant facility
9 over here, Kahului Harbor, various malls and the various
10 auto dealerships and businesses along here. So, right in
11 the center of this commercial industrial area is the Kanaha
12 Lot 8, heavy industrial zone. This is a view of the site
13 looking from the Hana Highway, so going back, it would be
14 across right at the median strip, right about here looking
15 back to the north towards the harbor. You can see the
16 industrial lots behind it here. This is the extent of the
17 lot right here.

18 And also, I would like to go back and show you one
19 other item here. So, we're looking -- we don't see in that
20 picture. There is a drainage canal, a concrete drainage
21 canal about 20, 25 feet in width that borders the project
22 here and follows this location out to the ocean here. So,
23 the lot is fully separated from the Kanaha Pond Wild Life
24 Sanctuary to the east over here. So, it is not in the
25 sanctuary. It is not in the pond. It is fully separated

1 and a lot in the industrial section. Moving on to the
2 perspective of the project here. This is what the project
3 will look like.

4 Here is Hana Highway, the harbor area, the
5 industrial subdivision here, Kanaha Pond in this area. This
6 is the retail auto industry area here. And also, you can
7 see the -- slightly you can see the drainage canal, the
8 width of it that carries on and forms the border of this
9 lot. Land use planning district. The State Land Use
10 Commission, it is an Urban Wailuku-Kahului Community Plan.
11 The lot is designated heavy industrial, and the County
12 zoning is designated M-2 heavy industrial with a height
13 limit of six stories.

14 The project site is located within the urban
15 growth boundary of Kahului as proposed by the Draft Maui
16 Island Plan 2030 General Plan Update. The Department notes
17 that the outright permitted uses on this M-2 heavy
18 industrial parcel are listed in Maui County Code 19.26.20
19 use regulations and includes such businesses as the
20 following selected as a subset from the referenced code
21 above. Zoning consistency. So, on the site for M-2 heavy
22 industrial, we could be siting right now an alcohol
23 manufacturing plant; automobile wrecking if conducted within
24 the building; brick, tile and terra cotta manufacture;
25 boiler and steel works; canneries, except fish canneries;

1 chemical manufacture; concrete and cement manufacture;
2 factories; foundries; railroad; junk establishment with
3 various provisions that I'm not including here; oil storage
4 plants; paint, oil, shellac, turpentine, lacquer, varnish
5 manufacture; petroleum products manufacture; plastic
6 manufacture; soap manufacture; sugar mills and refineries;
7 and to conclude, in general, those uses which may be
8 obnoxious or offensive by reason of emission of odor, dust,
9 smoke, gas, noise, vibration and the like and not allowed in
10 any other district provided, however, that any use not
11 specified in this section shall be approved by the
12 Commission as conforming to intent under this title. So,
13 that is the definition of our M-2 industrial zoning for this
14 lot.

15 Continuing with zoning consistency. Relative to
16 the M-2 County zoning permitted uses for the parcel, the
17 proposed project is a permitted use in the B-2 County
18 business district, which includes medical and dental
19 clinics. According to Maui County Code 19.26.20 use
20 regulations, again, any use permitted in the B-1, B-2 and
21 B-3 business districts and M-1 light industrial district is
22 also an allowable use in the M-2 business district.

23 Continuing on about the project site. The project
24 is site is separated from the Kanaha Pond Wild Life
25 Sanctuary. Kanaha Pond Wild Life Sanctuary is located

1 directly to the east of the project site. Kanaha Wild Life
2 Sanctuary is a 234 acre wild life preserve that serves as a
3 breeding area for protected Hawaiian birds. The pond was
4 formerly identified as a bird refuge in 1951 by the Hawaiian
5 government and designated a registered landmark in late 1971
6 by the United States Department of Interior. The project
7 site is separated from the wild life sanctuary by a
8 privately owned drainage canal that serves to accommodate
9 storm water flows from other industrial areas in central
10 Kahului.

11 So, it is physically separated from the wetlands
12 and not part of the wetlands. Thus, the project site is
13 located adjacent to but is not part of the contiguous wild
14 life sanctuary. So, in summary in terms of land use
15 planning, the proposed project is a permitted use for the
16 M-2 heavy industrial parcel. The project meets zoning
17 height restrictions. The Maui Medical Plaza is a relatively
18 benign use for the parcel and is an outright permitted use
19 in the B-2 business district. There is no physical
20 connection to the Kanaha Pond Wild Life Sanctuary.
21 Absolutely no runoff or drainage from the proposed project
22 will enter the Kanaha Pond.

23 The project has met all other necessary
24 environmental permits to develop the parcel. Thus, all the
25 expert agencies have provided input and concur for the

1 project to move forward from an environmental perspective.
2 Finally, just two slides on important procedural issues. In
3 2006, there was an archeological inventory survey report
4 that was completed and accepted by State Historic
5 Preservation Division. An archeological monitoring plan was
6 submitted and was accepted by SHPD.

7 And on December 3rd, 2010, SHPD determined that
8 there would be no effect on historic properties. On July
9 21st and 22nd, 2010, the SMA permit application and draft EA
10 were mailed and distributed for review and comment to 43
11 agencies with a deadline comment of August 23rd, 2010. On
12 July 27th and August 10th, 2010, the draft environmental
13 assessment was heard by the Maui Planning Commission at
14 regularly scheduled meetings. After that, on September 7th
15 and October 5th, 2010, the Urban Design Review Board
16 reviewed the project and voted 7 to 2 on October 5th, 2010
17 to recommend approval of the project and forwarded three
18 recommendations to the Maui Planning Commission.

19 And to wrap up, on September 14th, 2010, the
20 department led a site visit for the Maui Planning Commission
21 to review the location and answer Commission's questions.
22 On April 26th, 2011, the Maui Planning Commission reviewed
23 the final environmental assessment and voted to request
24 additional information from the applicant on eight topics.
25 We came back on May 24th with the applicant, and the Maui

1 Planning Commission continued the review of the final
2 environmental assessment that was deferred from April 26th.
3 At this May meeting, the Maui Planning Commission voted to
4 accept the final environmental assessment and issue a
5 finding of no significant impact for the project.

6 On June 23rd, 2011, the final environmental
7 assessment and the finding of no significant impact was
8 published in the Office of Environmental Quality Control and
9 Environmental Notice for review. And I'll turn it over to
10 the applicant. Those are my opening remarks. If there are
11 no questions or discussion at this point, I'll turn it over
12 for the briefing from the applicant. Thank you. I would
13 like to introduce Mark Roy representing Munekiyo & Hiraga,
14 who is representing the applicant Kanaha Professional Group,
15 LLC.

16 MR. ROY: Thanks, Jim. Good morning, Chair,
17 Members of the Maui Planning Commission. As Jim mentioned,
18 my name is Mark Roy with Munekiyo & Hiraga. I'm here today
19 representing the applicant for the project. I'm also joined
20 by members of the project team, who are also available to
21 answer any questions the Commission may have during today's
22 review of the SMA application for the project. As I think
23 you've heard before today, the project is really seeking to
24 address the critical shortage in quality medical office
25 space in the central valley of Maui. It provides expansion

1 opportunities also for medical practitioners and will cater
2 for the island's growing and aging population. It will also
3 allow patients and businesses to benefit from having access
4 to multiple medical services that will fall within a single
5 conveniently located facility in Kahului.

6 The plans for this project have actually been
7 developed over a five-year, five- or six-year planning
8 development time line since the initial acquisition of the
9 site back in 2006. It's involved a five-year, almost
10 six-year extensive permitting process that has included
11 consultation with a wide range of federal, state and county
12 agencies, including the Department of Army, the
13 Environmental Protection agency, the U.S. Fish and Wild Life
14 Service and the Department of Land and Natural Resources.

15 It has also involved exploration of a number of
16 design alternatives across four separate meetings with the
17 Urban Design Review Board. Before the Commission today
18 incorporates both recommendations and mitigation measures
19 received throughout this extensive stakeholder engagement
20 process. One example of this has been the complete redesign
21 of the building to respond to a recommendation from the
22 Urban Design Review Board. This changed the plans and
23 incorporates a staggered or stepped back exterior elevation
24 or appearance to minimize the massing of the structure.

25 As mentioned by Jim, this design for the project

1 received Urban Design Review Board approval back in 2010.
2 Lot 8, which is the parcel for this project is the last
3 parcel of the subdivision in which it is placed within the
4 Kanaha industrial subdivision. It's privately owned by the
5 applicant, as Jim had mentioned, and it separated from the
6 state-owned Kanaha Pond by the Kahului drainage canal
7 system. The project is proposed as a six-story medical
8 office facility with an attached parking garage structure.

9 Site grading, landscaping and utility improvements
10 will also be completed as well as the construction of a
11 viewing platform along the eastern portion of the site,
12 which would be utilized as an educational resource for
13 members of the public wishing to view and learn about the
14 neighboring Kanaha Pond. This is a site plan for the
15 project that shows the Maui Medical Plaza building here
16 oriented on the Hana Highway side of the parcel with the
17 attached parking structure at the rear of the site directly
18 behind the Maui medical office building.

19 Ingress and egress to this project will be
20 provided by two driveways along Hana Highway noted as A and
21 B on this slide. The driveway on the Wailuku side, A, will
22 allow vehicles to access the site. Vehicles would then
23 enter the parking structure in a clockwise fashion or
24 direction, would then exit on to Hana Highway through
25 driveway B, which is a right turn only driveway located on

1 the eastern side of the property.

2 The symbol X here is the location of the
3 observational viewing platform that will be constructed by
4 the applicant for this project. Just a few perspectives of
5 the building. One here you can see of note the six-story
6 staggered or stepped back design that has been incorporated
7 specifically in response to Urban Design Review Board
8 recommendations on this project.

9 And this is a view actually looking makai toward
10 the ocean across the industrial subdivision. This next
11 perspective shot is actually looking from the pond back
12 mauka across Kahului. And as you can see, the parking
13 structure is oriented at the rear of the facility. And this
14 is the street level perspective as if you were driving or
15 walking along Hana Highway. This is both sides of Hana
16 Highway, and this is the Maui Medical Plaza project here.
17 As staff has mentioned, an EA has recently been completed to
18 evaluate the potential impacts, environmental impacts I
19 should say from the project. This almost two-year
20 environmental review process involved the preparation of
21 numerous technical studies as well as a second phase of
22 dialogue with a large number of agencies and community
23 groups.

24 The final EA was accepted by this Commission in
25 May. The determination issued by the Commission was that

1 the project is not likely to generate significant adverse
2 impacts on the environment. FONSI determination issued by
3 the Commission was recently published by the state, which
4 essentially completed the environmental assessment process
5 for the project.

6 For the remainder of the presentation today, we
7 would like to offer the Commission a brief summary of some
8 of the key findings and mitigation presented in the final EA
9 that was accepted by this Commission. The first topic is
10 wetlands and the mitigation of the project's impact on a .94
11 acre area of wetlands that sits within the project site.
12 This small area of wetland is not part of, nor has it ever
13 been part of Kanaha Pond. It sits more than 100 feet away
14 from the larger Kanaha Pond resource and is separated from
15 the pond by the Kahului drainage canal.

16 As you can see on this slide, the project site is
17 outlined in yellow, and you can see the drainage canal
18 separating the project site from Kanaha Pond. The onsite
19 wetland, which is shaded here, .94 acres, has been deemed to
20 be of low biological value by the agency with jurisdiction
21 by these kinds of wetlands, the U.S. Army Corps of
22 Engineers. The applicant has worked for almost five years
23 with the Army Corps and various other agencies to develop a
24 wetland mitigation plan to compensate for the loss of this
25 wetland.

1 The standard for wetland mitigation has
2 traditionally been one acre for one acre, a mitigation ratio
3 of one to one. The mitigation accepted by the Army in 2010
4 for this project goes above and beyond and will provide five
5 acres of restored wetland to offset the loss of the .94 acre
6 onsite wetland. The approved mitigation will be undertaken
7 at the Waihee coastal dunes and wetlands refuge in the
8 partnership of the Hawaiian islands Land Trust. Agreements
9 with the land trust have been fully executed and the wetland
10 mitigation work will be completed prior to construction
11 starting on the project site.

12 A secondary study in the final EA related to the
13 types of biological resources present within the project
14 site. Surveys conducted have concluded that there are no
15 known threatened or endangered plant or animal species
16 within the 2.5 acre site. The project has, however, been
17 reviewed extensively by the U.S. Fish and Wild Life Service
18 and the Department of Land and Natural Resources pursuant to
19 the requirements that the Federal Endangered Species Act
20 given its location near Kanaha Pond and the protected bird
21 species that reside there.

22 Mitigation specific to ensuring the protection of
23 these resources from construction-related lighting, noise
24 and dust impacts have been incorporated into the project as
25 a result of this review process. These mitigation measures

1 are further detailed in Exhibit 14 of the staff report,
2 which is the provisional Department of Army permit for the
3 project, Exhibit 14. I would be happy to discuss these
4 individual conditions at a later time should the Commission
5 want me to do so. Project site and landscaping plans have
6 also been refined to ensure protection of resources within
7 Kanaha Pond through building placement to concentrate the
8 office uses on the Hana Highway side of the property, use of
9 appropriate vegetation buffers along the project's boundary
10 with drainage canals as well as the design of a drainage
11 system that improves area drainage systems and retains all
12 runoff on site.

13 With these mitigation measures, the project is not
14 expected to present impacts on Kanaha Pond, especially given
15 that the bird species within the pond have been found to
16 have adapted well over the years to the various other
17 industrial, retail, wastewater treatment and airport land
18 uses that surround the sanctuary. Traffic was another main
19 area of study in the final EA. Traffic impact assessment
20 studies have been completed for the project. They've been
21 reviewed by the State DOT, and they've evaluated existing
22 and future conditions both with and without the project.

23 A number of roadway improvements have been defined
24 as a result of these studies to mitigate the traffic impact
25 of the project and to enhance the operational efficiency of

1 the surrounding roadway network. All the improvements will
2 be paid for and constructed by the applicant at no cost to
3 the state or county.

4 A transportation management plan will also be
5 implemented by the applicant to reduce the number of vehicle
6 trips that are occurring both during construction and the
7 operational phases of the project. The next few slides
8 summarize the roadway mitigation aspects of the project.
9 I'll briefly go into them. The first is a third -- third
10 travel lane will be installed along Hana Highway fronting
11 the project site. This is the dark gray shaded area here.
12 An acceleration/deceleration lane will also be constructed
13 between the two project driveways for the project to ensure
14 safe access, ingress and egress to the project.

15 A left turn lane will also be installed at Hana
16 Highway at the median near the project access driveway to
17 ensure adequate storage capacity for vehicles turning left
18 into the project. Here is the left turn into the project
19 access driveway, and this is the additional left turn
20 storage lane that will be provided. The Kamehameha Avenue
21 approach to Hana Highway will be improved to provide two
22 right turn lanes to make it easier for vehicles to gain
23 access onto Hana Highway from this county-owned roadway.
24 Here we have the improved condition. It's currently just a
25 single right turn lane onto Hana Highway.

1 The applicant is proposing to reconfigure this
2 approach and will be providing two separate right turns onto
3 Hana Highway to make it easier for people turning onto the
4 highway. And finally, this slide is slightly difficult to
5 read. I do apologize. A left turn storage lane will be
6 installed at the existing U turn median opening on Hana
7 Highway to allow vehicles exiting the project site at the
8 right turnout driveway to gain access to the eastbound
9 travel lanes of Hana Highway. This is the U turn here, and
10 essentially if you're coming out of the project, you take a
11 right turn out. You travel along Hana Highway.

12 If you want to get back to upcountry, you utilize
13 this U turn, and this is where the improvement will be.
14 There will be a U turn storage lane put in place here to
15 allow residents, patients, employees to get access to Paia,
16 Haiku and upcountry from the project site. I would also
17 like to note there is a sidewalk being put in as part of
18 this project that will connect the pedestrian crossways
19 across Hana Highway. So, fronting the project site up until
20 the traffic signal, there will be a sidewalk installed to
21 ensure that pedestrians have full access across to the other
22 areas of Kahului and the bus stops that are actually
23 provided near Safeway and Maui Mall.

24 The next topic explored during the EA process was
25 drainage. The site plan has been designed to incorporate a

1 comprehensive drainage system consisting of a series of
2 detention basins. These basins have been sized to provide
3 200 percent of the capacity required by the County's
4 drainage rules and will serve to retain 100 percent of the
5 total post development runoff for the project. These basins
6 will be installed as an early phase of construction to
7 ensure that neighboring land use is fully protected during
8 project implementation.

9 Other best management practices such as filter
10 inserts will also be utilized to remove suspended pollutants
11 from runoff and prevent the release of sediment from the
12 site. These drainage measures will not only mitigate the
13 impact of the project, but will also serve to improve
14 existing drainage conditions in the area. The final topic
15 of the EA I would like to touch on is the sustainability
16 program that has been developed for the project. Key
17 elements of this program include water conservation
18 measures, drought tolerant native landscaping, a
19 construction management plan and the promotion of
20 alternative forms of transportation through the installation
21 of bicycle racks within the facility, changing rooms and
22 funding of a bus stop shelter for the County of Maui.

23 The number of innovative design techniques are
24 also part of the program such as the incorporation of views
25 and natural daylighting within the interior medical suites

1 of the building as well as use of outdoor corridors, plantar
2 boxes and exterior balcony overhangs around each floor as it
3 takes that staggered step back away from the highway.

4 This will reduce quite effectively the cooling and
5 ventilation requirements for the project. Energy
6 conservation measures for the project will include lighting
7 control systems throughout the project, energy efficient
8 fixtures and an onsite energy generation system. The
9 generation system will maximize the use of available roof
10 space atop the facility through a network of 328
11 photovoltaic panels. The PV system will provide for 100
12 percent of the energy needs, the building's core systems.

13 In addition, an estimated savings from the energy
14 efficiency measures that will be implemented throughout the
15 project are expected to range between 36 to 45 percent
16 compared to conventional building design. The goal of this
17 program is to integrate a number of best practice
18 sustainability measures to make this project one of the
19 leading green buildings on Maui. This last slide summarizes
20 the various mitigation measures that have been developed
21 through the project's five-year planning and design process.
22 The process again has involved extensive coordination and
23 consultation with numerous governmental agencies including
24 U.S. Fish and Wild Life Service and the Department of Land
25 and Natural Resources.

1 With the mitigation proposed, the project is well
2 positioned to provide a cutting edge facility that not only
3 addresses the current need for additional quality medical
4 space on Maui, but one that provides much needed employment
5 opportunities for Maui County residents into the future.

6 To conclude, the applicant has addressed all
7 applicable SMA requirements that as was discussed in the
8 Planning Department's analysis and staff report.

9 We've, therefore, stood before you today to
10 respectfully request your support in approving the SMA use
11 permit so that the project can proceed to construction and
12 implementation. Thank you very much.

13 CHAIR HIRANAGA: Thank you. At this time, I would
14 like to open the public hearing. Is there anyone here who
15 wishes to provide testimony at this time regarding this
16 agenda item? Please come forward and identify yourself.

17 DR. BERRY: Good morning. My name is Benjamin
18 Berry. I'm a resident of Maui. I am a physician, OBGYN in
19 solo private practice. And I wish to speak in favor of this
20 project as a private citizen. I have no economic interest
21 in this project whatsoever. I was very impressed with what
22 I heard today. I consider myself an environmentalist.

23 I also, partly because of the length of time this
24 project has been going on, I'm now an endangered species, so
25 that I can identify with other endangered birds that may be

1 using the sanctuary. I think you're all aware of the
2 problem we have on Maui in both recruitment and retention of
3 physicians. And part of that problem has to do with the
4 availability of attractive economically sound space in which
5 to work. I myself have been here in practice for 12 years.
6 I know of no private medical office buildings that have been
7 built in this area during the time that I have been here.

8 There is a need for solo private and small group
9 practices for those individuals that do not want to go to
10 big box medical facilities such as Kaiser and Maui Medical
11 Group. This facility would offer not only private space,
12 but also the ancillary facilities, lab and x-ray, which we
13 all require for the benefit of our patients. It's also
14 within ten minutes of Maui Memorial Medical Center. As an
15 obstetrician-gynecologist, of course, this is of great
16 interest to me, since I sometimes need to get to the
17 hospital in a hurry. Thank you very much for allowing me to
18 speak before this group.

19 CHAIR HIRANAGA: Questions, Commissioners?
20 Commissioner Wakida.

21 COMMISSIONER WAKIDA: Thank you for coming this
22 morning. Are you interested in leasing space in this
23 projected building?

24 DR. BERRY: I have shown some interest in leasing
25 space in the building; however, considering my age, I doubt

1 very seriously I will still be in practice by the time this
2 building is completed. I'm 75 and still practicing.

3 CHAIR HIRANAGA: Any other questions? Seeing
4 none, thank you. Anyone else wishes to provide testimony at
5 this time?

6 MR. GENSLER: Hello. My is Michael Gensler. I
7 live in Kihei. I have a special needs daughter. And right
8 now, the number of physicians able to cope with special
9 needs children is very limited. Our current doctor has
10 already spoken here today, and I find it sometimes
11 frustrating because I often have to take my daughter to the
12 physician where she currently is set up to practice, drive
13 up to Wailuku to have certain testing done, drive to other
14 places in Kahului to have other testing done.

15 And to have a place where these different
16 locations can all be centralized would be a of great use. I
17 like the fact that the -- okay, well we'll change. I find
18 that when I've talked to the doctors, I've asked them why
19 don't they set up their practice if they're frustrated where
20 they're currently at. The reason is when it comes to
21 medical needs, building -- you can't just move into any
22 building and set up a medical practice. It has to meet
23 certain specifications and certain requirements. And even
24 though there may be lots of other buildings that are empty
25 here up in Wailuku and Kahului, the cost of retrofitting

1 them is beyond the price of any single physician.

2 It wouldn't be practical to set up a business that
3 way. By having an outside source developing this, it makes
4 it much easier for a doctor to step in. It defers the cost
5 over a much greater period of time, and they're not
6 accepting the burden of the entire thing. Doctors are
7 businessmen, too, as far as I can tell.

8 If it were more cost effective for them not to
9 have this, they wouldn't support it if this were just some,
10 you know, somebody's dream of something they wished to do.
11 But all the doctors I've spoken to are in favor of it,
12 because in their mind, it's something they actually need.
13 It's something they cannot do individually by themselves.
14 So thank you very much.

15 CHAIR HIRANAGA: Questions? Commissioner Wakida.

16 COMMISSIONER WAKIDA: Good morning. As far as you
17 are aware, the doctors that your family uses that -- for
18 your daughter, in particular, have any of them shown an
19 interest in leasing space in this projected building?

20 MR. GENSLER: Yes, both the doctor -- doctor, who
21 is Beth Fox, she spoke here earlier. And when I talked to
22 where she gets her MRI's, they had mentioned that they were
23 looking -- they would like to move into a dedicated building
24 rather than being in there with Denny's and everywhere else.
25 Thank you.

1 CHAIR HIRANAGA: Anyone else wishes to provide
2 testimony at this time, please come forward and identify
3 yourself.

4 MR. MAYER: Hello, Dick Mayer. Just a question.
5 I came for the wind farm, but I have one question. And I
6 didn't here an answer today. And that was is a certificate
7 need needed? Has it been obtained for this building? I
8 understand most medical facilities usually need that kind of
9 a documentation. I didn't hear it mentioned, and it may
10 have been done. I just didn't hear it. Is that for the
11 whole building, or let's say it's partly a medical building
12 and other facilities in there? I'm not sure. It's a
13 question I would like the Commission to be asking the
14 applicant.

15 CHAIR HIRANAGA: Questions for the testifier?
16 Seeing none, thank you.

17 COMMISSIONER MARDFIN: I have one.

18 CHAIR HIRANAGA: Commissioner Mardfin.

19 COMMISSIONER MARDFIN: Do you know of any similar
20 office space around that could be used by physicians and
21 what the status of those are?

22 MR. MAYER: Yes, I believe like, for example,
23 within the hospital itself, they wanted to expand their CAT
24 scan. They needed a certificate of need. I know the
25 hospital out in West Maui, when they wanted to open up and

1 operate their medical facility, they needed to get a
2 certificate of need for that. So, I don't know the
3 extent -- it's just a question that occurred to me while I
4 listened to the discussion, and I hadn't heard it mentioned.
5 And given the fact they're talking about these all multiple
6 -- it's not just doctors' offices. It seems to be doing
7 procedures and multiple things. I don't know if that
8 question has been asked or answered.

9 COMMISSIONER MARDFIN: Thank you.

10 CHAIR HIRANAGA: Anyone else? Please come forward
11 and identify yourself.

12 DR. HANSON: James Hansen, gastroenterologist.
13 The answer to the question is for doctors' offices, you do
14 not need a CON. Now, if there were a CT machine or MRI that
15 was brought in, yes, it would take a CON. But there's
16 nothing about doctors' offices or the labs or the ancillary
17 services that require that.

18 CHAIR HIRANAGA: Questions for the testifier?
19 Seeing none, anyone else wishes to testify at this time,
20 please come forward.

21 MR. SILVA: How's it? Good morning. I'm Charlie
22 Silva. I've made a presentation previously to the approval
23 of this project. Life-long Maui resident. Lived here all
24 my life. Never went anywhere except Maui. I grew up right
25 down the street. I myself speaking on a local -- as a local

1 resident, having lived here all my life and having studied
2 history and Hawaiian history, I think there's a need for
3 this project to be approved on Maui. Because there's a lot
4 of new young people come to the medicine -- into medicine.

5 And they're used to having upgraded facilities
6 with top-notch stuff. And this facility will provide that.
7 It would provide a service for the new Marriott Hotel being
8 built by the airport, and also provide a service for
9 emergencies at the airport. The building itself I think
10 looks pretty nice. Some people are going to be awed by the
11 six stories of it. The way it's been set back, I do not
12 find it offensive at all. Maui is coming to the 21st
13 Century. I have to accept that as a local person. Things
14 are going to be different. This is not a box store like
15 Wal-Mart or Costco or any other shopping center. This is a
16 first class medical facility that's going to care for the
17 people of Maui for the people of Maui.

18 I'm not saying the other medical facilities are
19 lacking, but this is a state of the art medical facility. I
20 think this island could use some nice state of the art stuff
21 here. I walk into Queen's Hospital, I'm awed by all the
22 stuff they get. It's like wow. And you walk into Maui
23 Memorial after that, kind of not that exciting. But, you
24 know, these people have gone through a lot of time, money
25 and a lot of stuff to get this project approved to where the

1 people of Maui would accept it.

2 All the permits have been done. All the federal
3 stuff has been done. All the state stuff has been done.
4 They're spending money to improve the highways. They're
5 spending money to improve access, in and out. And I told
6 Dr. James a long time ago when he first brought this project
7 up, what I envision from that project was you know when the
8 doctor has to tell somebody some unfortunate information,
9 looking out over Kanaha Pond may soften that a little bit,
10 you know. And for people who have -- Kanaha Pond is one big
11 place. Get plenty over there.

12 And the birds always going come. I kind of joke
13 around, too, the building being up like that, the birds can
14 all park on the edge and look for the fish rather than
15 flying to look for the fish. They can stand up there, talk
16 story, and they swoop down and get them instead of just
17 flying. And that's the funny part. But to be serious about
18 it, Maui could use a nice, first rate medical facility. And
19 I'm just speaking as a layman. I don't know nothing. I'm
20 one dumb Portagee.

21 But this project is going to bring a lot of nice,
22 I don't know -- see, but anyway, it's going to be very nice
23 for the community. I would hope that you guys would look at
24 it in that light and approve the project. Thank you guys
25 for letting me share with you this morning. You know, I

1 look at that coffee pot. And how come I come you guys eat
2 all that stuff over there? We don't get eat any of that
3 stuff. It's kind of like taxpayer money, huh? I would
4 really like to have a cup of coffee. By anyway, thank you
5 guys for letting me share. Take this into serious
6 consideration what this project would do for the people of
7 Maui. Thank you for letting me share. I appreciate it.

8 CHAIR HIRANAGA: Questions, Commissioners? Seeing
9 none, thank you.

10 MR. SILVA: Thank you.

11 CHAIR HIRANAGA: Anyone else wishes to provide
12 testimony at this time? Please come forward and identify
13 yourself.

14 MR. HULTQUIST: Hi, good morning. Kenny
15 Hultquist. I just want to say on the outset, I'm not
16 against this project building or the services that it's
17 going to provide. I'm just against where it's going to be.
18 I have two issues of the Maui Time -- or Maui News here.
19 One of them is Irene Bowie from July 22nd, and the other one
20 is yesterday from W.S. Merwin, who is the poet laureate of
21 the United States of America. It's kind of like being a
22 Pulitzer Prize winner.

23 He says the way this project has been sneaked
24 through until now attracting as little public attention as
25 possible and dodging or ignoring the legal protections put

1 into place by concerned citizens to protect Kanaha Pond from
2 just such irreparable abuse is part of the shameful nature
3 of this project.

4 I myself, I'm a little astonished and kind of
5 annoyed actually that this project is back here already. I
6 thought you guys just voted to send it up to the County
7 Council. What happened? I thought the County Council was
8 going to review this. Does anybody in here think it's even
9 slightly suspicious that this project is back here so soon?
10 It just kind of like floated up to the eighth or ninth
11 floor, and then it's back down here already like it got
12 covertly stamped or something. What happened with that?

13 That just rings so many bells and blows whistles
14 and waves so many flags, it should be like -- it should
15 sound and look like the 4th of July in here with all that
16 going on. But nobody seems to have any concern that I can
17 see about the process. This is unprecedented in all my
18 years of hanging out here and videoing and testifying. And
19 I've also attended a handful of workshops focused on how to
20 streamline the permitting process while maintaining the
21 integrity of the procedure. That's good stuff, and I agree
22 that the process needs to be expedited. But the various
23 agencies' policies are still being scrutinized, and I think
24 it still has a way to go.

25 And I think most of you would agree with that. Is

1 this project going to be promoted as like the poster child,
2 new and improved, but yet to be completed permitting
3 process? This one needs to go back upstairs, so that the
4 County Council can review it and there can be more testimony
5 up there. And this property is not in the core of the
6 industrial district. Slide Number 21 up there, they say
7 this is in the middle of the industrial district. It would
8 be way down north on that picture if it was in the core.
9 It's right on the edge. Look at the aerial. It's on the
10 edge of the industrial district.

11 And that M-2 zoning is obviously miszoned.
12 Somebody messed up when they zoned that M-1, because why
13 would they do that right next to the pond? That was an
14 oversight. You guys have conditions on B&B's and TVR's that
15 you have to put a sign out front. How come there's no sign
16 saying what's going to be going up there?

17 CHAIR HIRANAGA: Please conclude your comments.

18 MR. HULTUQIST: In closing, Merwin, after pointing
19 out that Hawaii is referred to as the extinction capital of
20 the world says no wonder that the plan was kept from the
21 public as carefully as possible. Someone still might care.
22 And hopefully, five of you will care enough to send this
23 back where it belongs, upstairs to the County Council to
24 scrutinize this project further, the location.

25 CHAIR HIRANAGA: Thank you very much. Questions

1 for the testifier? Seeing none, thank you. Anyone else
2 wishes to provide testimony at this time, please come
3 forward.

4 MR. HOROVITZ: Hi, my name is Peter Horovitz. I'm
5 actually the attorney for the applicant. I believe you have
6 a letter from me submitted in response to a few letters that
7 were received after the packet went out. And I do also want
8 to respond briefly to the last testifier. I also have
9 Mr. Merwin's article. I read it. I respect him as a poet.
10 I don't believe he has his facts correct on this one,
11 particularly about how this project, quote, unquote, was
12 snuck through.

13 You saw the slide of how long this project has
14 been worked on. It's been five, almost a six-year process.
15 We were before the Urban Design Review Board on publicly
16 notice meetings on four separate occasions. This is our
17 fifth time, publicly noticed meeting before the Planning
18 Commission. We've worked with the Army Corps of Engineers
19 for nearly five years, federal, state and local agencies.
20 We hosted the Maui Tomorrow and Sierra Club on site over a
21 year ago on July 21st, answered any questions that the --
22 that they might have had.

23 We've been on their web site or at least the Maui
24 Tomorrow web site for at a least a year, and our web site
25 has been up for quite a period of time. So, I don't believe

1 this is indicative of slipping this one through or hiding
2 the ball on this. We've, in fact, gone above and beyond the
3 call in many respects. We've talked about the wetlands
4 mitigation implementation. That actually is not just simply
5 a commitment to do that before construction commences,
6 that's already being done. I had the pleasure of handing
7 over some quite sizeable checks to implement the first
8 couple of phases of that to the Hawaiian Island Land Trust,
9 and they were quite pleased to receive it, and they're doing
10 very good work.

11 There's a strong commitment on the part of the
12 applicant from day one to do this correctly and to do this
13 above board and to do this in the open and to meet the
14 community needs. That, too, was what was somewhat
15 disappointing in a few of the late submissions that we
16 received or that you have received from a couple of the
17 Urban Design Review members. These are people who now find
18 themselves in the minority, and I would point out that even
19 had they voted the way they're now espousing, the
20 recommendation would have still carried, because the vote
21 would have been at least five to four on that.

22 But in any event, I believe that the way their
23 submissions have been presented call into question whether
24 they've been submitted at all. I'm not here to answer that
25 question. I just was somewhat disappointed with how it was

1 raised. I would happy answer any questions the Commission
2 members may have about the process, and I know Mr. Roy is
3 more versed than I in it. But I do believe that we have
4 been acting appropriately throughout this process. Thank
5 you.

6 CHAIR HIRANAGA: Questions from the Commissioners.
7 Commissioner Ball.

8 COMMISSIONER BALL: The Hawaiian Island Land
9 Trust, is that a Maui group?

10 MR. HOROVITZ: When we started this process, it
11 was the Maui Coastal Land Trust, and about earlier this
12 year, they actually merged with all of the similar land
13 trusts across the islands. They found out that they were
14 all working towards the same goal, but sometimes competing
15 for the same dollars and they could be more efficient
16 together. So, earlier this year, they -- our agreements
17 actually were signed with the Maui Coastal Land Trust. They
18 are now to the benefit of the Hawaiian Island Land Trust.

19 COMMISSIONER BALL: But the funding that you --
20 the checks that you wrote go specifically then to this?

21 MR. HOROVITZ: Correct. The way the agreement
22 reads, we have an obligation to maintain in perpetuity five
23 acres of wetlands. Now, they're the boots on the ground.
24 So, you have the people who know how to do these things
25 actually do the work. So, we worked in connection with them

1 to develop a project that met their needs and the Army
2 Corps' needs. And that had three distinct levels of
3 funding. The first was a start-up costs. We knew in year
4 one, it was going to cost X, which was quite frankly the
5 largest sum of money. And think of it as any kind of
6 development project. You know what it costs to clear the
7 land, to do what you need to do to rehabilitate.

8 Then there's five years of fairly known fixed
9 costs. We're into that -- we're into the year two of that
10 already that we're funding as the years go by. And then
11 after year five, it's going to be the Hawaiian Island Land
12 Trust saying, okay, now we know what we need to monitor this
13 to continue and preserve this. And so, every year, we'll
14 essentially get a bill, and that will be paid. But that
15 amount is essentially up to their discretion knowing what is
16 needed to keep it and to preserve the land.

17 CHAIR HIRANAGA: Commissioner Wakida.

18 COMMISSIONER WAKIDA: Regarding the subject you
19 were just on about maintaining this area in perpetuity, you
20 said after five years, then you will essentially be getting
21 a bill?

22 MR. HOROVITZ: Yes.

23 COMMISSIONER WAKIDA: And I assume by we, you mean
24 the developers?

25 MR. HOROVITZ: The owner of the project. And

1 that's a very good question. The question is always how do
2 you ensure that this continues. Okay. We have already
3 recorded against the property this obligation, okay. So, it
4 is an obligation of our property owner should this land ever
5 transfer, and we can't say who is going to own this land in
6 100 years, it's their obligation to continue it. It goes
7 with the land. Just as if you bought a piece of property
8 and it had a deed restriction that said you couldn't do X or
9 you had to do Y, it's the exact same thing.

10 It's in the obligation of the property, and the
11 Hawaiian Island Land Trust has the right to enforce that
12 obligation if anyone ever fails to live up to it.

13 COMMISSIONER WAKIDA: Thank you.

14 CHAIR HIRANAGA: Commissioner Lay.

15 COMMISSIONER LAY: Okay. This is just to I guess
16 clarify what's going on with that. So, we have .99 acres in
17 the Kanaha area that's going to be used. In exchange, we're
18 given five acres in the Waihee area?

19 MR. HOROVITZ: Yes.

20 COMMISSIONER LAY: To create wetlands, or to
21 maintain wetlands?

22 MR. HOROVITZ: To recreate wetlands. There were
23 five acres in the land that were within the preserve that
24 were not functioning either to my understanding. So, these
25 are rehabilitating wetlands that used to exist. I'm not a

1 wetlands biologist, but my understanding is when you try to
2 create a wetland out of nothing, you have very limited
3 success; whereas, when you are trying to rehabilitate
4 something, which is what the Hawaiian Island Land Trust is
5 in need of doing. They have over 200 acres over there that
6 they need funding to maintain, that they have a greater
7 chance of success. And that's what we're doing.

8 COMMISSIONER LAY: To revitalize then?

9 MR. HOROVITZ: To revitalize, correct.

10 CHAIR HIRANAGA: Any other questions from
11 Commissioners? Commissioner Sablas.

12 COMMISSIONER SABLAS: Is your contract or
13 agreement with the Hawaiian Island Land Trust contingent on
14 the approval of this project?

15 MR. HOROVITZ: No.

16 COMMISSIONER SABLAS: All right. So, even if you
17 don't have approval, you would still --

18 MR. HOROVITZ: It's in place. And that quite
19 honestly, when we signed this with the Maui Coastal Land
20 Trust, and again, when I had the honor of handing over the
21 first set of funding, they posed the question to me, "Why
22 are you giving us this now?" The normal course, people
23 would set up these agreements, have them all teed up and in
24 place. And once they get their permit, they sign them up.

25 Because if they're not going to do the project,

1 why bother? And I think that goes to the question. We did
2 it the other way. We thought this was the right thing to do
3 and the right way to do it. So we signed it up. The
4 obligation is in place no matter what happens today.

5 COMMISSIONER SABLAS: Thank you.

6 CHAIR HIRANAGA: Any other questions from
7 Commissioners? Seeing none, thank you.

8 HOROVITZ: Thank you.

9 CHAIR HIRANAGA: Anyone else wishes to provide
10 testimony at this time?

11 MR. DENAIS: Good morning, my name is David
12 Denais. I'm a resident of Maui for 15 years. I'm here as a
13 private citizen. Thank you for being here. I would like to
14 bring a human spiritual element to this hearing. What we're
15 being asked to approve here today, and I am in favor of
16 this, is a sanctuary for healing. Hawaiian culture is all
17 about healing. It's all about the breath of life and
18 allowing that to be facilitated.

19 What we're hearing here is a proposal to establish
20 a sanctuary for healing. Healing is in its essence
21 spiritual. Healing is not ordering diagnostic tests. It is
22 not just referring out for technological testing. It is
23 healing. I have personal knowledge of Dr. James, and he is
24 a healer. He is an authentic healer, implying that he is in
25 touch with his spiritual nature. I believe that this needs

1 to be the emphasis and brought into bear on the decision to
2 approve and have this project built, because surely, if
3 nothing else, we are in need of spiritual healing that is
4 manifesting as all of our physical ailments. So again, I
5 urge you to approve this project based on the Hawaiian
6 tradition of healing through the spirit. Thank you.

7 CHAIR HIRANAGA: Questions, Commissioners? Seeing
8 none, anyone else wishes to provide testimony at this time,
9 please come forward. Seeing none, the public hearing is now
10 closed. At this time, I'll open the floor to questions from
11 the Commissioners to the applicant or staff. Commissioner
12 Wakida.

13 COMMISSIONER WAKIDA: My question is to, I
14 suppose, our corporate counsel. I have two concerns on
15 clarification. One is on Ms. Bowie's reference to minutes
16 being posted and how that affects this proceeding. Either
17 you or the Planning Department, either one.

18 MR. GIROUX: Well, all I can speak on is the
19 Sunshine Law does require that the minutes be made available
20 within 30 days of the meeting. I'm not sure as far as the
21 facts go, you know, just because they weren't on the web
22 site doesn't mean that they weren't available. I think
23 that's something the staff has to address as far as, you
24 know, if they are in compliance of the Sunshine Law or not.

25 But we've had the training. This Board is aware

1 of that rule, and staff is also aware of the necessity for
2 that.

3 COMMISSIONER WAKIDA: Well, it seems like that
4 should be resolved one way or the other if the public feels
5 they didn't get sufficient notice of this.

6 DIRECTOR SPENCE: Mr. Chairman.

7 CHAIR HIRANAGA: Director.

8 DIRECTOR SPENCE: Okay. Thank you. I tend to
9 agree with Mr. Giroux, that just because it wasn't posted on
10 web site doesn't mean that the minutes weren't available.
11 I'm not sure exact procedures as far as when something is,
12 you know, the timeliness of when things are posted on the
13 web site. I know the agendas are -- I know often times when
14 I was a consultant, I would come in to the Planning
15 Department and request even recordings of the minutes, and
16 those would be provided to me. And they hadn't been
17 transcribed yet, so those things are available, maybe not
18 the way that everybody would prefer at this time where
19 they're posted on the web site, but they are available.

20 COMMISSIONER WAKIDA: So, you're saying they were
21 available 30 days ago for the public?

22 DIRECTOR SPENCE: I would say so. I'll just tell
23 you my experience again, that I would go in -- if the
24 minutes had not been transcribed as yet, I would go in and
25 request a tape recording of it, and that tape recording

1 would be provided to me.

2 So, it's -- you know, we have a long list of
3 minutes that, you know, are constantly being updated. I
4 also see Clayton Yoshida.

5 MR. YOSHIDA: Yes. The Secretary for the Boards
6 and Commissions does do the action minutes, which are
7 provided to the Commission, and motions that are -- have
8 passed within 30 days. Probably she does it at the next
9 meeting. I mean those are available. And the reason why
10 she does action minutes is because of this 30-day Sunshine
11 Law requirement.

12 COMMISSIONER WAKIDA: Well, I think that's -- that
13 doesn't go to the spirit of transparency, the action
14 minutes. They want to see the transcript of the
15 proceedings.

16 CHAIR HIRANAGA: Commissioner Mardfin.

17 COMMISSIONER MARDFIN: I want to echo what
18 Commissioner Wakida just said. The action minutes on this,
19 my recollection is that they're pretty sparse. I mean there
20 was a motion to approve as a FONSI, and it got passed with
21 my no vote. And if that's all that there is, that doesn't
22 give the public any basis for which to be speaking to this
23 issue today. I think that's terribly insufficient for the
24 public.

25 Now, maybe they could have gone in to ask for the

1 transcripts. Clayton, can you tell me whether -- when --
2 how, if I were a member of the public could I have found out
3 what went on at the meeting 30 days ago?

4 MR. YOSHIDA: A member of the public could request
5 a copy of the tape of the meeting, and we would charge them
6 maybe \$5 a tape, and we would provide them with a copy of
7 the audio recording.

8 COMMISSIONER MARDFIN: Thank you. And Irene said
9 that she looked on the web site. At what point do the
10 minutes get posted to the web site?

11 MR. YOSHIDA: They get posted after it's accepted
12 by the Commission. Because before that, they're just draft
13 minutes.

14 COMMISSIONER MARDFIN: Have we approved the
15 minutes for that meeting when we discussed this?

16 MR. YOSHIDA: That's on today's agenda as far as
17 the acceptance of the minutes of the April 26th meeting.

18 CHAIR HIRANAGA: Just for clarity, there is public
19 notice posted for this SMA application how many days in
20 advance?

21 MR. YOSHIDA: We publish at least 30 days in
22 advance in five newspapers.

23 CHAIR HIRANAGA: So, someone who becomes
24 knowledgeable that this meeting is taking place and wishes
25 to review the minutes of April 26th could possibly call the

1 Planning Department for the copy if they wanted to?

2 MR. YOSHIDA: Well, they could request -- if the
3 minutes are not accepted by the Commission, they could
4 request a copy of the action minutes if they have been
5 accepted. Or they could request a copy that a tape be made
6 of the April 26th meeting.

7 MR. ROY: The applicant's attorney Peter Horovitz
8 is actually familiar with the availability requirements of
9 transcripts and minutes. So, if it's okay with the
10 Commission, could I invite Peter Horovitz to respond to this
11 question?

12 CHAIR HIRANAGA: Actually, what I would like to do
13 is recess for lunch. And when we reconvene, we'll give some
14 time to Corporation Counsel and the Planning Department to
15 kind of find out exactly what happened, so we don't have to
16 speculate. And if there's no objection, we will reconvene
17 at 12:55.

18 COMMISSIONER BALL: No objection.

19 CHAIR HIRANAGA: Thank you. We're at recess.

20 (Lunch recess 11:50 a.m. to 12:55 p.m.)

21 CHAIR HIRANAGA: I would like to call the meeting
22 back to order. Before we continue with Agenda Item B(1), we
23 would like to dispose of communication Item D. Director.

24 DIRECTOR SPENCE: Okay. Communication item, this
25 comes under Agenda Item D(1). This is the finalization of

1 various details for more efficient processing regarding
2 contested case hearing for August 23rd with Daniel Grantham
3 and Lucienne DeNaie with the Waipio Bay Benevolent
4 Association appealing an SMA minor permit Bolles three-lot
5 subdivision.

6 And we have Clayton Yoshida.

7 MR. YOSHIDA: Thank you, Mr. Chair, Members of the
8 Commission. If you might remember on the June 28th meeting,
9 we had scheduled the contested case hearing on this SMA
10 appeal for your August 23rd meeting, which is two weeks from
11 today. But I guess the parties are here to report on the
12 status of being able to have the contested case hearing on
13 August 23rd. So, I'll let them introduce themselves for the
14 record.

15 MS. JOHNSTON: Deputy Corporation Counsel Mary
16 Blaine Johnston appearing on behalf of the Appellee
17 Department of Planning.

18 MS. DeNAIE: Aloha. Lucienne DeNaie, one of the
19 -- what am I, the Appellant?

20 MS. JOHNSTON: Appellant.

21 MS. DeNAIE: Appellant.

22 MR. GRANTHAM: Good afternoon, I'm Daniel Grantham
23 I'm one of the Appellants.

24 MR. TRUDEAU: And Jeffree Trudeau representing
25 David Bolles.

1 MS. JOHNSTON: We tried to set up pretrial
2 deadlines for submissions and so forth, and it turned out
3 that both the Appellants had some people they wanted to call
4 to testify that would not be available for a variety of
5 reasons, and that Mr. Bolles, the applicant, also is not
6 going to be available on the 23rd of August.

7 So I checked with Clayton. He said you could put
8 us on the agenda for September 27th.

9 MR. YOSHIDA: Yeah, that's correct.

10 MS. JOHNSTON: What we would like to do, that
11 being the case, is put on the record now what the Commission
12 would like to have as prehearing deadlines, when you would
13 like submissions and so forth, because we were unable by
14 stipulation e-mail to get those lined up, so we figured we
15 could get it done at one time today.

16 CHAIR HIRANAGA: Is there any objection to the
17 request to continue the scheduled hearing?

18 COMMISSIONER BALL: No objection.

19 CHAIR HIRANAGA: No objection.

20 MS. JOHNSTON: Okay. And my understanding, we'll
21 be the only item on the agenda on that day; is that correct,
22 unless there are communications or something like that?

23 MR. YOSHIDA: There is one rescheduled item, which
24 is that Horizons of Gold Bed and Breakfast in Kapalua, their
25 special use permit, which was deferred from the July 9th

1 meeting. But it's just a time extension, special use permit
2 time extension to continue to operate a bed and breakfast.
3 That's the only other item.

4 CHAIR HIRANAGA: Are you planning to place that
5 before this agenda item or after?

6 MR. YOSHIDA: It's up to the wish of the
7 Commission, or we could place them at a time certain like
8 1:00 so they're not kind of waiting. We either could
9 schedule them at the very beginning, or we could schedule
10 them at a time certain.

11 CHAIR HIRANAGA: Any discussion from the
12 Commission? We'll leave it to your expertise, Planner
13 Yoshida.

14 MR. YOSHIDA: So, I don't know if the Commission
15 wants to establish say deadlines for filing of motions,
16 submission of witness and exhibit lists, time lines, maximum
17 time frame for opening and closing statements and the order
18 in which they will present their case to the Commission.

19 CHAIR HIRANAGA: Does anybody have a
20 recommendation?

21 MS. JOHNSTON: We had talked about, when we were
22 trying to come up with some dates, submitting everything at
23 least 14 days in advance of that hearing date. If you
24 prefer longer, we could set that. As far as setting like
25 opening -- usually, there's a time frame for opening

1 statements. I believe normally the Appellants would go
2 first, and the Appellees would be after that. In this case,
3 we also have the applicant who should have a chance also to
4 present to the Board and to the Commission. But it's up to
5 you how far in advance you would like the materials so you
6 can review them.

7 CHAIR HIRANAGA: And how long a time period were
8 you suggesting as far as for testimony for each party?

9 MS. JOHNSTON: Well, usually I think in the past,
10 opening statements have been limited to 15 minutes per each
11 party, and then I don't know that there have been time
12 limits set on the amount of time for presentation, but
13 certainly you could say no more than an hour, hour and a
14 half for each party for the proceeding, because that would
15 get you through pretty much in the morning if we had that
16 kind of schedule.

17 But it's really up to you. And, of course, the
18 Commission is going to want to ask questions and so forth,
19 so, whether that gets counted. And you have an hour's worth
20 of questions say for the Appellants or their witnesses, that
21 would be how you would compute that as far as the
22 presentation of their case. I think a prehearing memo that
23 the parties submit would pretty well outline what each of
24 our cases is, so you would be focused on what the issues
25 are.

1 CHAIR HIRANAGA: Are the Appellants in agreement
2 with the proposed time limits from the Appellee?

3 MS. DeNAIE: Do we have any choice? Isn't that
4 the standard procedure?

5 CHAIR HIRANAGA: There is no standard procedure.

6 MR. GRANTHAM: At this point, it sounds okay to
7 us. We're still working out just what all we have to
8 present, and it would be nice to be able to have some back
9 and forth if possible, you know, to kind of let you know
10 where we are. And we might be able to come in with less
11 time. We might ask for a little more time just based on
12 what kind of witnesses we have to bring forward and what
13 kind of presentations we have to make.

14 Oh, yeah, we definitely want to be able to present
15 some visuals, you know, maybe on the screen, something, you
16 know, slides and things like that, possibly even video, but
17 I'm not sure about that.

18 CHAIR HIRANAGA: Maximum of two hours, would that
19 be adequate?

20 MR. GRANTHAM: Yeah. That sounds like that would
21 probably work, two-hour max. Like I say, if we could come
22 in shorter, we are happy to do that.

23 CHAIR HIRANAGA: It's a maximum, not to exceed.

24 MR. GRANTHAM: Yeah, I get a feeling we're not
25 required two hours.

1 CHAIR HIRANAGA: Does the Appellee have any
2 comments regarding the two-hour maximum?

3 MS. JOHNSTON: Would that include time for
4 presentation of the case, or would that also include our
5 opening arguments?

6 CHAIR HIRANAGA: Presentation of the case.

7 MS. JOHNSTON: So, 15 minutes for opening
8 arguments, and two hours maximum?

9 CHAIR HIRANAGA: Yes.

10 MS. JOHNSTON: Okay, that's fine.

11 CHAIR HIRANAGA: Any discussion from the
12 Commissioners?

13 MR. GIROUX: Can I just clarify that you guys have
14 your witness lists, exhibit lists and exhibits, and you have
15 a deadline to exchange that?

16 MS. JOHNSTON: Two weeks, 14 days ahead of time.

17 MR. GIROUX: And can you just create that order
18 and submit it for the Chair to sign?

19 MR. GRANTHAM: If I could just ask a quick
20 question. Was that two hours for the applicant as well?

21 MS. JOHNSTON: I think the applicant has the most
22 at stake here, so he certainly should be given whatever
23 time. I would think a lot of the testimony and
24 presentations that go before will cover a good bit of also
25 what the applicant might bring in, but certainly he has a

1 right to -- his application is being challenged.

2 CHAIR HIRANAGA: Yeah, that's fine. Two hours
3 maximum for the applicant also.

4 MR. GRANTHAM: So, we get two hours, they get four
5 hours?

6 CHAIR HIRANAGA: Two hours for the Appellee, two
7 hours for the Appellant, and two hours for the applicant.

8 MR. GRANTHAM: Essentially, they have the same
9 case, right?

10 CHAIR HIRANAGA: We're hoping they won't require
11 four hours of presentation.

12 MR. GRANTHAM: And we will have the opportunity,
13 both parties, all three parties will have the opportunity to
14 question each others' witnesses?

15 CHAIR HIRANAGA: Cross-examine, yes.

16 So, I guess the Chair is asking, if there's no
17 objection or consensus, we accept what has been discussed.

18 COMMISSIONER SHIBUYA: No objection.

19 COMMISSIONER BALL: No objection.

20 CHAIR HIRANAGA: Thank you.

21 MS. JOHNSTON: Okay. I'll prepare the order and
22 submit it to the Chair for signature.

23 CHAIR HIRANAGA: All right. Returning to Item
24 B(1), Kanaha Professional Plaza, LLC. I think there was a
25 question on the floor from Commissioner Wakida regarding

1 posting of minutes, and I believe either corporation counsel
2 or the Planning Department Director has a response.

3 MR. GIROUX: I'm going to ask Clayton to just
4 chronologically go over the issues that are presented.
5 Basically, what we're trying to do is on the record confirm
6 that there was action minutes taken over certain meetings
7 and that those minutes were available to the public pursuant
8 to Chapter 92 and pursuant to our rules.

9 MR. YOSHIDA: Thank you, Mr. Giroux. The first
10 meeting on the acceptance of the final environmental
11 assessment was on April 26th. And those action minutes,
12 acceptance of those action minutes was on the May 10th
13 agenda. And according to the action minutes from the May
14 10th meeting, it was moved by Mr. Freitas, seconded by
15 Ms. Domingo to accept the action minutes of the April 26th,
16 2011 meeting. So, those action minutes of the April 26th
17 meeting were accepted on May 10th.

18 The second time the issue item came up, acceptance
19 of the final EA, was on May 24th. And those minutes, action
20 minutes were produced for the June 14th meeting; however,
21 according to the action minutes, it was deferred. And it
22 was again agendized for the July 12th meeting. These are
23 the action minutes of May 24th, and they were accepted by
24 the Commission on July 12th. So, those were the two
25 meetings, the April 26th and the May 24th when the final EA

1 item came before the Commission and the action minutes for
2 both of those meetings were accepted by the Commission.

3 CHAIR HIRANAGA: So, are you satisfied with the
4 answer, Commissioner Wakida?

5 COMMISSIONER WAKIDA: May I pose a question? Do
6 you know, Clayton, how long the action minutes have been a
7 device that this Commission has had, how long have we been
8 using action minutes?

9 MR. YOSHIDA: I think it's been several years now.

10 COMMISSIONER WAKIDA: Yes, it was my understanding
11 that that was something that instituted by a previous
12 chairperson, so at the time that the rules were made -- I
13 don't want to belabor this process, by the way. I want to
14 move on, but I do want to point out at the time these rules
15 were made, there weren't action minutes. So, it was
16 referring I can assume there to regular minutes that had
17 text in them. So, I will accept whatever recommendation
18 that you have at this point, but I don't think the action
19 minutes are sufficient for public input.

20 CHAIR HIRANAGA: Commissioner Mardfin.

21 COMMISSIONER MARDFIN: Clayton, do you have the
22 May 24th action minutes with you?

23 MR. YOSHIDA: May 24th, yes.

24 COMMISSIONER MARDFIN: Would you read the section
25 that deals with this issue? It shouldn't take you long.

1 MR. YOSHIDA: It was moved by Mr. Shibuya,
2 seconded by Mr. Lay to accept the final environmental
3 assessment and issue of findings of no significant impact,
4 FONSI. Assenting: Shibuya, Lay, Domingo, Freitas, Ball.
5 Dissenting Mardfin, Sablas and Wakida.

6 COMMISSIONER MARDFIN: Do you think that's
7 sufficient information to the public so that they would
8 understand the context of what was written with respect to
9 this project, the EA for this project?

10 MR. YOSHIDA: I guess it just makes the public
11 aware of the action that was finally taken on the matter.

12 CHAIR HIRANAGA: Commissioner Mardfin, I don't
13 believe what his opinion is is relevant. It's whether we've
14 met the minimum requirements of the law. And if you wish to
15 ask if that has been met, you can ask corporation counsel.

16 COMMISSIONER MARDFIN: I would like to ask
17 corporation counsel if the minimum requirements of the law
18 promote the goal of transparency with respect to public
19 action?

20 MR. GIROUX: The idea of the minutes, and we have
21 it in our rules and we follow Chapter 92, is that what was
22 happening before we were taking the action minutes was we
23 had verbatim minutes, and those verbatim minutes were not
24 coming out within 30 days. And that started the whole issue
25 of we're trying to find a balance here between having a full

1 record and complying with Chapter 92. Now, Chapter 92
2 doesn't require verbatim minutes. It requires that there be
3 a minimum, that there's the date, place, time, members
4 present and actions taken and any discussions that any
5 member would want added to those minutes. And that's why we
6 have you adopting your minutes is so they can be reviewed.

7 And if you don't think they're thorough enough,
8 you can add stuff to it with full knowledge that you will be
9 getting, you know, the three-inch thick, eight hours of the
10 last Planning Commission that we had. And we also review
11 those and adopt those. That is not required. And if you
12 look at our rules, it specifically says that it is not
13 required that the meeting be transcribed. We do that as a
14 public service above and beyond what we do to meet the
15 minimum requirements of the law.

16 So, somewhere in between, this body does have the
17 ability to say, oh, we would like more in our action
18 minutes, could you add this, this, and this. But it's not
19 required by law. What's important is that the public knows
20 that these actions are being taken, that they are on the
21 agenda, and that they know that they can access the full
22 record digitally. They can come in and get a recorded copy.
23 They can come in, and if they're ready, they can get a
24 printed copy. They can get a CD.

25 They can read it if we have it printed already.

1 And that's what it means that it is a public record. Your
2 meeting minutes are a public record. The transcript is a
3 public record. The public can come in and get whatever it
4 is at whatever stage it is, but we have to produce these
5 action minutes within 30 days. And so, that's the minimum
6 requirement that by law that we have to do.

7 COMMISSIONER MARDFIN: I understand the
8 requirements of law, and I understand the action minutes.
9 But when you say that the public could come in to get the
10 minutes, that at least in this case would not be possible,
11 except for an oral recording, that would not have been
12 possible for this meeting in advance of this meeting?

13 MR. GIROUX: I don't know if I can comment on
14 that.

15 COMMISSIONER MARDFIN: I would just like to make a
16 quick comment that I think that the goal of -- while it will
17 slow things down, and I'm not in favor of that, I think the
18 goal of transparency and community input suggests that we
19 ought to have some ability for the public to find out the
20 discussions in advance of taking final action on something.
21 And today we're being asked to take basically final action
22 on a plan.

23 And I don't think they've had an opportunity to
24 get the full discussion of what went on when we did the
25 FONSI. That's just my view. It may be a minority view, but

1 it's my view.

2 CHAIR HIRANAGA: Any other questions for the
3 applicant or staff?

4 DIRECTOR SPENCE: Mr. Chairman.

5 CHAIR HIRANAGA: Director.

6 DIRECTOR SPENCE: I just would like to comment.
7 People who are involved with this process, and I've been
8 involved with it on, you know, on many different sides of
9 issues. And I look around the room, and I know there are
10 any number of people who have been involved with the
11 Planning Commission, County Council meetings for a long
12 time. There's a general awareness that the recordings are
13 available. If there isn't an awareness, I would like to say
14 that the verbatim minutes, which are not required by law
15 really are, as corporation counsel said, they're done as a
16 service to the community and as a service to -- we are going
17 beyond the call by doing them, and we always have.

18 They take an extraordinary amount of time to do.
19 The set of minutes that you are going to be approving today
20 is 121 pages. It's like ten point type. If you were going
21 to do regular -- I just briefly looked at a transcript that
22 was done by Rachelle, whatever is up on the web site, that's
23 like almost 300 pages. You know, those things have to be
24 gone over like three times to make sure that they're correct
25 before they're presented to the Commission for review.

1 That's an extraordinary amount of work, and I'm going to be
2 adding to Carolyn's work if I keep going here.

3 But, you know, what we're doing by providing all
4 this really is for the public benefit. It's difficult, if
5 not impossible, with budgets the way they are, with
6 personnel the way it is that we can get, you know, 300 pages
7 of verbatim minutes out to the public, you know, within 30
8 days. And I should also add just, you know, following up on
9 what corporation counsel said, you know, there's no
10 requirement to post it on the web site. We do that, you
11 know, for the benefit of the public as soon as something is
12 available.

13 COMMISSIONER MARDFIN: I appreciate that, and I'm
14 glad that we do that. I think it's the right thing to do,
15 and I'm not asking that the full minutes be published 30
16 days after the meeting. What I'm suggesting is that the
17 full minutes be published a week before we take action on
18 the next step of whatever the process is for any particular
19 project. I'm just -- I'm not asking that it be done within
20 30 days of the meeting, but I'm asking it be done prior to
21 us dealing with whatever the next step is for any given
22 project.

23 CHAIR HIRANAGA: Thank you for your comments.
24 Once again, are there any questions regarding this
25 particular agenda item? Commissioner Mardfin.

1 COMMISSIONER MARDFIN: Yes, and I have the right
2 person up at the stand. Would you turn to Table 7 of Page
3 87 of the docket I guess the first section.

4 COMMISSIONER SHIBUYA: Table 7?

5 COMMISSIONER MARDFIN: Table 7. It's on Page 87.
6 Would you tell me the first building in Kahului?

7 MR. ROY: Just to clarify the question, on Table
8 7, Commissioner Mardfin, you're asking which of the
9 buildings represented in the table is the first one on the
10 table that is a building in Kahului, correct?

11 COMMISSIONER MARDFIN: Right.

12 MR. ROY: I believe it is Kahului Town Center if
13 we're working down.

14 COMMISSIONER MARDFIN: I am. And the maximum
15 number of stories?

16 MR. ROY: I believe it's five stories.

17 COMMISSIONER MARDFIN: And that's proposed, is it
18 not?

19 MR. ROY: It's been approved by the Commission.

20 COMMISSIONER MARDFIN: Okay. The next one from
21 Kahului?

22 MR. ROY: Is the A&B airport hotel.

23 COMMISSIONER MARDFIN: Four stories. What's the
24 next one?

25 MR. ROY: Is the Harbor Lights.

1 COMMISSIONER MARDFIN: Four stories. What's the
2 next one?

3 CHAIR HIRANAGA: Commissioner, please allow the
4 applicant to answer your question before you ask another
5 question.

6 COMMISSIONER MARDFIN: Okay.

7 CHAIR HIRANAGA: Thank you.

8 MR. ROY: It's the -- well, the first answer was
9 Harbor Lights condominium on Lower Beach Road in Kahului.

10 COMMISSIONER MARDFIN: And that's four stories?

11 MR. ROY: Correct.

12 COMMISSIONER MARDFIN: The next one?

13 MR. ROY: Is the student dormitories on Lono
14 Avenue.

15 COMMISSIONER MARDFIN: And that's four stories?

16 MR. ROY: Correct.

17 COMMISSIONER MARDFIN: The next one?

18 CHAIR HIRANAGA: If you already know the answer,
19 why are you asking the question?

20 COMMISSIONER MARDFIN: Because my point is --

21 CHAIR HIRANAGA: Please allow him to answer the
22 question. You're answering your question with your answer.
23 You're not allowing him to answer your question.

24 COMMISSIONER MARDFIN: Go ahead.

25 MR. ROY: I believe the next one on the list is

1 the Lono Building in Kahului.

2 COMMISSIONER MARDFIN: And the last one that's in
3 Kahului?

4 MR. ROY: I believe it's Roselani Place, which is
5 four stories.

6 COMMISSIONER MARDFIN: So, there are a total of
7 how many in Kahului?

8 MR. ROY: I think out of the buildings I just
9 mentioned, that's not an exhaustive list, I think we're
10 talking seven buildings in total.

11 COMMISSIONER MARDFIN: I would say it's six, but I
12 won't quibble. And they're all -- all except one is four
13 stories; is that correct?

14 MR. ROY: You're correct, for the buildings
15 represented on this table, yes.

16 COMMISSIONER MARDFIN: Is there any six-story ones
17 in Kahului?

18 MR. ROY: I believe, and I'm not 100 percent
19 certain about this, but my recollection tells me that the
20 Kahului Town Center, when it was approved by the Maui
21 Planning Commission, contained one building that actually
22 was six stories in height. I think current plans that
23 they're showing for the project have five stories, but I
24 believe the project was approved for a six-story building.

25 So, I believe there is one six-story building

1 that's represented maybe on this table potentially in the
2 future.

3 COMMISSIONER MARDFIN: Thank you.

4 CHAIR HIRANAGA: Are we done? Oh, Commissioner
5 Shibuya.

6 COMMISSIONER SHIBUYA: I would like to go through
7 some of the conditions here for clarification only.

8 CHAIR HIRANAGA: Commissioner Shibuya.

9 COMMISSIONER SHIBUYA: Yes.

10 CHAIR HIRANAGA: The staff has not officially
11 presented their recommendation at this time. It's
12 inappropriate to discuss what may be proposed as
13 recommendations.

14 COMMISSIONER SHIBUYA: I'll hold it.

15 CHAIR HIRANAGA: Thank you. Commissioner Wakida.

16 COMMISSIONER WAKIDA: Mark, I would like to talk a
17 little bit about electricity. And I'm looking on Page 65 of
18 the same document that you were in before. You're proposing
19 a photovoltaic grid on the roof, correct?

20 MR. ROY: That's correct.

21 COMMISSIONER WAKIDA: And at the bottom of that
22 paragraph, it will provide ten percent of the total energy
23 needs of the project. Is that ten percent of the total
24 energy needs of the project once it's fully occupied?

25 MR. ROY: That's correct.

1 COMMISSIONER WAKIDA: Are you at this time limited
2 in how much -- well, let me rephrase my question. What is
3 limiting you for how many photovoltaic panels you can put up
4 on your building?

5 MR. ROY: That's a very good question, and the
6 applicant has certainly explored the opportunities to place
7 more additional photovoltaic panels on the building.
8 They're certainly striving to make this a cutting edge green
9 building in Maui. And to answer the Commissioner's
10 question, its roof size is limiting the amount of PV panels
11 that can be placed on the top of the facility. As I
12 mentioned earlier during the presentation, the design has
13 gone through four separate Urban Design Review Board
14 meetings.

15 And on a basis of recommendations issued by the
16 Board, it's gone through a series of design revisions, and
17 the latest revisions is a staggered step back design away
18 from Hana Highway that limits the massing of the building.
19 And by us incorporating that recommendation and meeting the
20 intent of or the desires of the Urban Design Review Board,
21 as you can tell with the stepping back of each story up to a
22 six-story level, there is limited roof space available on
23 the top of this building.

24 So, the 328 PV panels that Commissioner references
25 in Page 65 of the staff report, that is the maximum number

1 that we can place on top of that roof, so we really are
2 maxing out the amount of energy that can be garnered from
3 the roof of the facility.

4 COMMISSIONER WAKIDA: Are there any other limiting
5 factors for the number of PV panels for the number of
6 photovoltaic energy you can create? In other words, do you
7 have any limiting factors from Maui Electric?

8 MR. ROY: None that I'm aware of.

9 COMMISSIONER WAKIDA: In looking at your parking
10 lot or looking at one of your schemas in one of the other
11 documents, I noticed that the upper floor of the parking lot
12 is open, correct, open air, the top floor?

13 MR. ROY: That's correct.

14 COMMISSIONER WAKIDA: Have you considered
15 enclosing that so you would have more room for panels?

16 MR. ROY: I believe the applicant did look at that
17 option. It's -- it boiled down to the cost benefit analysis
18 ultimately, because by instituting some additional coverage
19 on the roof structure, it would be possibly considered
20 another story, I'm not entirely sure, by the Planning
21 Department. And we're already at six stories at the
22 present. So, that's why we've ended up with the 328 PV
23 panels on the roof of the medical plaza facility itself, so
24 we are limited from the standpoint of height.

25 COMMISSIONER WAKIDA: I'll yield for now. I have

1 more questions on that.

2 CHAIR HIRANAGA: Commissioner Shibuya.

3 COMMISSIONER SHIBUYA: Mark, can you tell me if
4 there is an engineer that can describe the circuitry for
5 this particular structure? Is it going to be a separate
6 circuit, or is it going to feed off an existing circuitry;
7 and if it's feeding off an existing circuitry, how much of
8 that circuit is actually subscribed by renewable energy?

9 MR. ROY: We do have with us today, Commissioner
10 Shibuya, the electrical engineer for the project,
11 Mr. Don Suzuki. If it's okay with you, I would like to
12 invite him to the podium, because he certainly knows a lot
13 more about this field than I do.

14 COMMISSIONER SHIBUYA: Sure.

15 MR. SUZUKI: Could you please expand on your
16 question? I don't quite understand.

17 CHAIR HIRANAGA: Please identify yourself.

18 MR. SUZUKI: My name is Don Suzuki. I'm with
19 Morikawa & Associates, the electrical consultant.

20 COMMISSIONER SHIBUYA: I thought that this -- I
21 assumed this large structure would have its own circuitry, a
22 circuit line with MECO, or they could take an existing
23 circuit and take in a branch from that. And if you are
24 taking some existing branch, then that branch could be
25 having renewable energy already subscribed to. And so, that

1 could give you an answer as to what percentage that you can
2 add renewable energy to. But if it's a separate circuit,
3 then you can go up to 15 percent, would you not?

4 MR. SUZUKI: Currently, Maui Electric allows
5 renewables to occupy up to 15 percent of their circuit
6 capacity. Without going into a specific PPA, which needs
7 basically the PUC approval, you're only allowed a few
8 options. One would be net metering, which caps out a 100
9 KW, and the only other option you have is a FIT, which is
10 very new, up to 2,050 KW. So, I mean there's two limiting
11 factors. If you wanted to exceed that, you can go into a
12 whole PPA process, which could take anywhere from a year to
13 two years.

14 COMMISSIONER SHIBUYA: Right. I just wanted to
15 answer Commissioner Wakida's question there, because there's
16 this variable that I'm aware of.

17 MR. SUZUKI: Sure. And the capacity changes day
18 to day. What is available today may not available tomorrow
19 and less than that the next day. I don't currently know
20 what the exact capacity is on that circuit that passes by in
21 front of the project site, so I can't comment on that. But
22 basically off of that, we will be taking a separate service
23 off of that, the 12 KV line fronting the property.

24 COMMISSIONER SHIBUYA: And you have your own
25 separate transformer for that?

1 MR. SUZUKI: There would be a transformer on site.

2 COMMISSIONER SHIBUYA: Okay. Thank you.

3 CHAIR HIRANAGA: Commissioner Mardfin.

4 COMMISSIONER MARDFIN: Is there any provision for
5 power interruption? Do you have backup capacity?

6 MR. SUZUKI: I believe we have a 1,500 KW
7 generator on site.

8 COMMISSIONER MARDFIN: Would that be sufficient if
9 power went off?

10 MR. SUZUKI: Based on our capacity, we're looking
11 at about 1,000 KW demand. It should be more than sufficient
12 to carry the building.

13 COMMISSIONER MARDFIN: And how long would it last?

14 MR. SUZUKI: Right now, I think with the fuel
15 storage, it's set for a day and a half.

16 COMMISSIONER MARDFIN: Thank you.

17 CHAIR HIRANAGA: Commissioner Wakida.

18 COMMISSIONER WAKIDA: Since we have you up here,
19 an expert, have you projected what the energy or consumption
20 would be for this building once it's fully occupied?

21 MR. SUZUKI: That's very --

22 COMMISSIONER WAKIDA: Approximately.

23 MR. SUZUKI: That's a very open-ended question. I
24 don't know the type of tenants that are coming in. We based
25 it on a blanket load. I looked at what the hospital draws.

1 We do a lot of work with the hospital. I looked at what the
2 hospital draws and what kind of building we have. If you
3 want to bring in big power users such as an MRI or a CT
4 scan, you need a certificate of need, or you need to have
5 somebody relocate from another facility here.

6 You know, the building is certainly designed
7 capable of occupying that kind of tenant. Whether they
8 actually will occupy is a different story. If it was just a
9 mixed load, then we had come up with a demand of basically
10 1,000 KW.

11 COMMISSIONER WAKIDA: 1,000 kilowatts a day?

12 MR. SUZUKI: That's demand. We're not talking
13 kilowatt hours. I'm talking demand, how much energy it will
14 use at any given point in time. What you get billed is
15 kilowatt hours. I'm talking kilowatt demand.

16 COMMISSIONER WAKIDA: Well, if you wanted to
17 know -- let's see, I'm trying to think how to phrase this
18 question. If I wanted to know the energy demand of that
19 project on MECO, for example, or not for example, for sure,
20 how does one determine that? In other words, here is a
21 project that's come up. It's going to have a huge demand of
22 electricity, which MECO is going to have to provide.

23 MR. SUZUKI: Sure.

24 COMMISSIONER WAKIDA: So, you must have some idea
25 what that's going to be.

1 MR. SUZUKI: In order to design the electrical
2 system, we do what we call a load calculation. And in that
3 load calculation, there's a few things that we do know like
4 lighting loads we can budget for. The big unknown is any
5 user's actual equipment loads. And that's a guesstimate we
6 put in based on a medical facility, and we use basically
7 past experience to determine that.

8 We come up with a calculated load. And from that,
9 you determine a demand load based on a certain percentage of
10 that being used at any one given point in time. And so,
11 that's where 1,000 KW comes from. And that's basically --
12 and what Maui Electric will do is take our load
13 calculations, even our demand calculations. They'll
14 probably use the hospital as a guideline, and they'll come
15 up with their own demand.

16 So, we may show the need for let's say 1,000 KV
17 transformer on site, and they put a 750 KV transformer on
18 site based on their demand calculations. To put that in a
19 simpler term, typically everybody's house now has a minimum
20 of 100 amp service, if not a 200 amp service. A lot of
21 times, Maui Electric will assume a demand of anywhere from
22 two and a half to five KW for your house. Based on the wire
23 size, that would be like 50 amp wiring, and your house has
24 200 amp wiring. So, I'm just giving you kind of a demand
25 relationship versus calculated size of service or calculated

1 system design for a structure.

2 COMMISSIONER WAKIDA: Well, I'm asking these
3 questions because the project needs electricity. It will
4 pay for it, but the bottom line is that Maui Electric has to
5 come up with that energy. And how it comes up with that
6 energy impacts the whole county.

7 MR. SUZUKI: Okay.

8 COMMISSIONER WAKIDA: So, that's something I think
9 that I want to look at with all projects is what the impact
10 of the County will be on the energy demands of a new
11 project.

12 MR. SUZUKI: Okay.

13 COMMISSIONER WAKIDA: So, I don't know. You've
14 said 1,000 kilowatts, and I still don't know what that
15 means. Is that a day, an hour, at any given time? I'm not
16 quite sure what the reference is.

17 MR. SUZUKI: It's at any given point in time, it
18 could be drawing that amount of power.

19 COMMISSIONER WAKIDA: I see. Okay. Thank you.

20 CHAIR HIRANAGA: Commissioner Mardfin.

21 COMMISSIONER MARDFIN: Just as a followup, and I
22 think this will -- so, it's drawing 1,000 kilowatts, and it
23 goes for an hour's period of time, that's 1,000 kilowatt
24 hours?

25 MR. SUZUKI: That's correct.

1 COMMISSIONER MARDFIN: So, you have to multiply
2 the usage times the amount of time to get the kilowatt
3 hours. Thank you.

4 COMMISSIONER WAKIDA: Thank you.

5 MR. ROY: I just wanted to come up for one piece
6 of information for the Commission based on this discussion,
7 which I think is a very valid discussion. The SMA use
8 permit is what's before the Commission at today's meeting.
9 And as part of the SMA use permit application process, the
10 application gets routed out to various federal, state,
11 county agencies. MECO is one of those, those entities that
12 receives the application, and we've received letters on this
13 project from MECO, and they didn't have any significant
14 comments I believe for this particular project. Thank you.

15 CHAIR HIRANAGA: Commissioner Lay.

16 COMMISSIONER LAY: Mark, if you don't mind, I
17 would like to see the aerial photo of your project site that
18 shows the industrial area around it also. This is the
19 simulated one. It was a downward view.

20 MR. ROY: Are you talking the three-dimensional
21 perspective?

22 COMMISSIONER LAY: Yes.

23 MR. ROY: Is it this one?

24 COMMISSIONER LAY: And this is all in the M-2
25 zoning, right? The buildings around it, are they also zoned

1 in the M-2?

2 MR. ROY: Correct. If you follow my laser
3 pointer, I will outline the industrial subdivision as it
4 goes back to Kahului Harbor. This is the project, which I'm
5 outlining with my laser pointer right now. The boundary to
6 the subdivision comes along the highway and then cuts back
7 and encompasses all of these lands, which as you can see,
8 they have industrial land uses oriented back towards the
9 harbor.

10 COMMISSIONER LAY: So, in essence, if it's not
11 this project, it could look like any one of those buildings
12 in the back eventually if they came before us and within
13 that zoning build something like that?

14 MR. ROY: Correct. I think given the permitted
15 uses that Jim kind of outlined today as far as the
16 presentation, all of those uses could potentially be
17 developed on this site, industrial uses, similar to what you
18 see there today.

19 COMMISSIONER LAY: So, we would have that
20 foreground view brought up to the medical plaza area, right,
21 I mean taken that something like in that sort of development
22 would continue in that area under the M-2 zoning?

23 MR. ROY: Correct. It would be a permitted use on
24 the site.

25 COMMISSIONER LAY: Within all their rights, right?

1 Okay. Yeah, thank you.

2 CHAIR HIRANAGA: Commissioner Mardfin.

3 COMMISSIONER MARDFIN: A followup to that. For
4 the stuff in the background that's already in use as heavy
5 industrial, what's the maximum height of any of those
6 buildings?

7 MR. ROY: The maximum height is permitted by Maui
8 County zoning.

9 COMMISSIONER MARDFIN: What are the maximum height
10 of any of those buildings?

11 MR. ROY: Are you talking about the existing
12 structures?

13 COMMISSIONER MARDFIN: The existing structures.

14 MR. ROY: I think there are a couple of
15 significant structures as you work your way back. Can I
16 just liaise with the applicant with some of the names,
17 because I'm not too familiar with the name of some of those
18 structures?

19 COMMISSIONER MARDFIN: Please do.

20 MR. ROY: There are some warehouse structures in
21 that that do get up there. As you drive into the harbor
22 compound, you can see one of your left as you drive down
23 Hobron Avenue towards the cruise ship site.

24 COMMISSIONER MARDFIN: Can you tell me either the
25 height or the number of stories?

1 MR. ROY: It's a warehouse building, so I'm not
2 sure if the number of stories would be an accurate
3 description. But what I can say is one of the most
4 significant structures in the area I think is the MECO power
5 plant smoke stack, which I think comes up about 190 feet.
6 Obviously, we can't define that in stories, but it is a
7 significant structure.

8 COMMISSIONER MARDFIN: And the height of your
9 building?

10 MR. ROY: It is I believe 76 feet to the sixth
11 story. There is an elevator shaft at the top that brings it
12 just above 90 feet.

13 COMMISSIONER MARDFIN: Thank you.

14 CHAIR HIRANAGA: Commissioner Wakida.

15 COMMISSIONER WAKIDA: Do you have a slide with you
16 of Figure 6 in the -- if not, we can just look at the
17 booklet. It's this packet that says Proposed Exhibits.
18 It's got Exhibit 1 on the front. Otherwise, we'll just look
19 at Exhibit 6.

20 MR. ROY: Is that the elevations?

21 COMMISSIONER BALL: East west elevation.

22 COMMISSIONER WAKIDA: Well, we talked earlier
23 about the roof capacity and where you would put your PV
24 panels. And they would be located -- if you used this
25 picture, what roof structure would they be located on?

1 MR. ROY: They I believe would be located on the
2 very top of the sixth story.

3 COMMISSIONER WAKIDA: And so, there is -- on the
4 story right below, there is room there. And I noticed that
5 the parking structures do not go up all the way to the sixth
6 floor, at least the top of them don't, except for one little
7 part there. That is part of the parking structure, right,
8 the connecting part, the part all to the -- or is that a
9 walkway? What's between the part with the roofs and the
10 part with the arrow that says proposed six-story, is that
11 parking as well?

12 MR. ROY: It's -- the parking structure is
13 actually attached to the Maui Medical Plaza building. So,
14 correct, the attached building there is the parking
15 structure.

16 COMMISSIONER WAKIDA: Those two sort of
17 attachments; is that correct?

18 MR. ROY: Correct.

19 COMMISSIONER WAKIDA: Okay. I would just like to
20 see you have some future plans for expansion of photovoltaic
21 is what I'm getting at and looking at where additional roof
22 space could be and if there's any thoughts about putting
23 some additional roof space on top of the parking structure
24 that's exposed open air.

25 MR. ROY: Sure. That's something, like I said,

1 the applicant is very cognizant of wanting to develop this
2 as a sustainable project. And the number of PV panels that
3 we have programmed into the facility at this point in time,
4 as I said, maxes out the use of available space. As the
5 project goes forward, if it's implemented and there are
6 additional opportunities at some point in the future, the
7 applicant certainly is willing to look into additional
8 opportunities for PV or whatever the new technology at the
9 time would be.

10 Because it's ultimately bringing about a cost
11 savings as well as for the project, tenants and people that
12 own units within the building.

13 COMMISSIONER WAKIDA: Yes. And if you're only
14 putting it on the very top, on top of the elevator shaft,
15 you've got some room down there on the top of the sixth
16 floor, correct, or am I misunderstanding this?

17 MR. ROY: I'm sorry, I should clarify my earlier
18 response to your question. I think where the top what you
19 would think would be a story on this building is actually
20 the elevator shaft. The use of the roof space is actually
21 the second one down. It's a small room elevator shaft
22 enclosure that sits on the sixth story of the top of the
23 building. So, that second tier from the top on the
24 elevation is actually the roof of the structure.

25 And that's actually what they're utilizing all the

1 available space for the PV system at this point.

2 COMMISSIONER WAKIDA: Well, I would like to see a
3 little more use here. But anyway, I'll move on.

4 CHAIR HIRANAGA: Commissioner Lay.

5 COMMISSIONER LAY: Can we see another view of your
6 viewing platform?

7 MR. ROY: Sure.

8 COMMISSIONER LAY: Next to this area, is there any
9 parking for people who are just going to pass by, stop
10 and --

11 MR. ROY: There will be, and it may not be
12 completely clear on this slide, but here is the public
13 viewing structure that would be constructed as part of the
14 project. The intent there is to provide a facility for use
15 by members of the public to be able to come in and enjoy
16 Kanaha Pond and actually learn about the pond as well.

17 As we all know, a viewing platform further towards
18 Krispy Kreme, and that's the only one at Kanaha Pond present
19 today. This will be the second, and to answer Commissioner
20 Lay's question, there will be parking in front of this
21 platform. So, the public can actually be closer when they
22 park the cars to this facility.

23 COMMISSIONER LAY: In this facility, will you have
24 anything that will tell about the different fowls in the
25 area, so people will know what to look for and its rarity?

1 MR. ROY: That's certainly the intent, to work in
2 conjunction with someone like Fern Duvall over at Kanaha
3 Pond, who is actually responsible for the management of the
4 pond, to really bring in the educational component to that
5 viewing platform so that, you know, kids and members of the
6 public can really come in and learn about the pond.

7 COMMISSIONER LAY: I think some information along
8 with it being built, you know, long ago with the Hawaiians
9 of, you know, them getting together and building this pond
10 would be a great asset for kids that come by and have that
11 information available, and also being able to see it.

12 MR. ROY: Sure. That's certainly something that
13 the applicant could do for that facility.

14 CHAIR HIRANAGA: Commissioner Wakida.

15 COMMISSIONER WAKIDA: Mark, while you have this
16 slide up, can you point out on this slide or on this
17 rendering where the PV panels are projected to be?

18 MR. ROY: Sure. And this is probably actually a
19 better one to look at, so I don't get confused again. This
20 is the elevator shaft that houses the elevator shaft. That
21 is the top of the sixth story of the medical plaza office
22 building. And so, the 300-plus PV panels that are being
23 proposed as part of the onsite renewable energy system are
24 essentially being placed on that top of the sixth story of
25 the building.

1 CHAIR HIRANAGA: Commissioner Wakida.

2 COMMISSIONER WAKIDA: One of the concerns that
3 came up, it was a small thing, but was the concern over the
4 confusion of the projected name, Maui Medical being a part
5 of the name of a couple of other facilities.

6 Has the developer addressed this? Is this the
7 final name for the project?

8 MR. ROY: No, it is absolutely not the final name
9 for the project. It's the name being utilized for planning
10 purposes for this particular project. And the letter
11 received from the gentleman over at the Maui Medical Group,
12 I think it was received during the EA process, I had a
13 telephone call with him. He certainly didn't want to make
14 any comments for or against the project, but he did just say
15 if they could take into consideration that this name is
16 pretty similar to, not only Maui Medical Group, but also
17 some of the other facilities on Maui. So, they're certainly
18 taking that into consideration.

19 But I think the point he was making during my
20 discussions with him is sometimes mail can be confused and
21 go to the wrong facility and things like that.

22 CHAIR HIRANAGA: Commissioner Wakida.

23 COMMISSIONER WAKIDA: I don't know if we have it
24 in this document, but certainly in the previous document,
25 you gave us a list of interested potential lessees. When

1 people were approached or when people signed up, did the
2 developer at that time have a projected lease rent cost for
3 them?

4 MR. ROY: Maybe that would be a good opportunity
5 to -- we have Dr. Jim Hansen in the audience, who is one of
6 the founding members of this project concept. And he can
7 give a background as to how this project essentially was
8 conceived. Because it does have an interesting story
9 attached to it.

10 COMMISSIONER WAKIDA: No, I just need to know if
11 these people were given a projection in cost, that's all.

12 MR. ROY: Actually, we have Peter Horovitz who can
13 respond directly to that question.

14 MR. HOROVITZ: Thank you. Peter Horovitz. I'm
15 the attorney for the applicant. I'm the one who drafted
16 those letters of interest to people. There was a projected
17 lease rent. You have to keep in mind though that again
18 we've been in the process for about five or six years now.
19 The projection was just that, it was a projection. What
20 it's going to be is it's going to be market. So, I know
21 from personal experience having rented my own office space,
22 market rents have, at least rents have come down a little
23 bit. That will definitely have some impact on it.

24 But it will eventually be market rate for the type
25 of building it is and the location.

1 COMMISSIONER WAKIDA: I just wanted to know --

2 HOROVITZ: I'm sorry, there was no firm commitment
3 or firm obligation from anyone as to the rates.

4 COMMISSIONER WAKIDA: Thank you.

5 CHAIR HIRANAGA: Commissioner Mardfin.

6 COMMISSIONER MARDFIN: I would just like to say I
7 was pleased to have this table in here on Page 7 showing
8 your -- you know, it looks like you said 60,000 square feet,
9 so you've got 40, 45 percent of it at least semicommitted to
10 by medical facilities, which is a big improvement over the
11 information we had in earlier variants of this.

12 MR. ROY: Actually, I believe the commitments to
13 date are 66 percent at this point.

14 COMMISSIONER MARDFIN: Does that mean that 60,000
15 is wrong?

16 MR. ROY: The gross leasable floor area of the
17 project is just over 100,000 square feet.

18 COMMISSIONER MARDFIN: I thought it was 132,000.

19 MR. ROY: It's 108 I think gross or 108,000 gross
20 leasable area. I can double-check on that. It's about 61
21 percent occupied at this point.

22 CHAIR HIRANAGA: If there's no further questions
23 from the Commissioners, we'll move on to the staff
24 recommendation.

25 MR. BUIKA: As far as the -- I'll give the --

1 okay, I'll just give the staff recommendation. First the
2 conclusions of law and then the staff recommendation. The
3 special management area permit. The Department finds that
4 the special management area use permit application complies
5 with the applicable standards for the special management
6 area as stated in Pages 2 to 4 of the Department's
7 recommendation report. That's the green copy you have.

8 And there are listed there 13 (a) through (l) are
9 the letters, which are the SMA criteria for reviewing this
10 project. The Department's recommendation, based on the
11 findings of fact presented in the Maui Planning Department's
12 report to the Maui Planning Commission for the August 9th,
13 2011 meeting, Maui Planning Department recommends approval
14 of the special management area use permit subject to 14
15 standard conditions, which are listed there and 20 site
16 specific conditions.

17 I would like to read through the, at least
18 generalize the site specific conditions if that's allowable
19 by the Chair. The standard conditions are there for you to
20 read. Beginning on Page 7, project specific conditions.
21 There are 20 of them. The first is that the state-approved
22 archeological monitoring plan will be implemented.

23 Number 16, that if any significant cultural
24 deposits or human skeletal remains are encountered, work
25 will stop immediately in the vicinity and the State Historic

1 Preservation Division of the DLNR and the Office of Hawaiian
2 Affairs will be contacted, and the Maui-Lanai Islands Burial
3 Council will be notified. Number 17, that the wetland
4 mitigation plan shall be implemented in order to compensate
5 for the loss of the .94 acre onsite wetland area.

6 Number 19, that the applicant obtain a Section 401
7 water quality certification for the project to the
8 satisfaction of the State Department of Health Clean Water
9 Branch. Number 19, that to the satisfaction of the State
10 Department of Transportation, the applicant will implement
11 and approve traffic management plan during both the
12 construction and operational phases of the proposed Maui
13 medical project.

14 Number 20, that to the satisfaction of the State
15 Department of Transportation, the applicant will reduce
16 traffic impacts associated with the proposed project through
17 implementation of six mitigation measures that are listed
18 there at the beginning of Page 7. I won't read through
19 those. We've reviewed those. Condition Number 21, that the
20 timing of the completion of the traffic and roadway
21 improvements will be determined and agreed upon between the
22 State Department of Transportation and the applicant to the
23 satisfaction of the State Department of Transportation.

24 22, that conservation and pollution prevention
25 measures will be implemented to reduce water supply impacts.

1 23, that a final drainage report and a best management
2 practices plan shall be submitted to the Department of
3 Public Works with the grading plans for review and approval
4 prior to issuance of the grading permits.

5 Number 24, that a National Pollutant Discharge
6 Elimination system permit shall be obtained if required to
7 the satisfaction of the State Department of Health. 25,
8 that the applicant obtains a community noise permit to the
9 satisfaction of the State Department of Health as
10 applicable. 26, 27 and 8 are fairly standard conditions for
11 fees for wastewater management. 29, that the proposed
12 development will utilize drought tolerant plants and native
13 trees in its landscaping scheme where possible.

14 30 refers to lighting, that the applicant shall
15 use best practices and crime prevention through
16 environmental design wherever possible in developing the
17 project. 31, that to the satisfaction of the U.S. Fish and
18 Wild Life Service and the DLNR Division of Forestry and Wild
19 Life, the applicant shall implement a lighting plan for the
20 project that is sensitive to the surrounding land uses,
21 particularly the nearby Kanaha Pond Wild Life Sanctuary.

22 All exterior lighting for the project will be
23 oriented towards the Hana Highway side of the proposed
24 medical plaza building and will be shielded and downward lit
25 in compliance with the requirements of the County of Maui's

1 outdoor lighting ordinance. To limit the lighting halo cast
2 by the project, both exterior and parking garage lighting
3 will utilize a dual lighting system, which will reduce night
4 pollution through the use of orange low glow light bulbs.
5 Almost done here.

6 32 is that the proposed project will comply with
7 off-street parking requirements as set forth by Chapter
8 19.36(a) of the Maui County Code. 33, that to the
9 satisfaction of the County of Maui Department of
10 Transportation, the applicant shall fund the construction of
11 a bus stop facility in the vicinity of the project site for
12 the County of Maui in order to encourage the use of mass
13 transit for travel to and from the proposed medical plaza.

14 34, that the project will comply with the
15 applicable provisions of the electrical vehicles
16 legislation, Section 291-71, Hawaii Revised Statutes. It is
17 important to note that the requirements set forth by this
18 legislation are not in effect at this time, but come into
19 force on December 31st, 2011. Those are it for the site
20 specific conditions.

21 In consideration of the foregoing, the Planning
22 Department recommends that the Maui Planning Commission
23 adopt the Planning Department's report prepared for the
24 August 9th, 2011 meeting and the Department's recommendation
25 report prepared for the same meeting as its finding of fact,

1 conclusions of law and decision and order, and to authorize
2 the Director of Planning to transmit said written decision
3 and order on behalf of the Planning Commission. That
4 concludes my recommendations report.

5 CHAIR HIRANAGA: Thank you. Any questions
6 regarding the staff recommendations for clarity? Seeing
7 none, I'll open the floor to a motion. Commissioner Lay.

8 COMMISSIONER LAY: I would like to make a motion
9 to approve the SMA permit with a request for conditions that
10 the Department set forth.

11 CHAIR HIRANAGA: Is there a second?

12 COMMISSIONER SHIBUYA: Second.

13 CHAIR HIRANAGA: Moved by Commissioner Lay, second
14 by Commissioner Shibuya. Any discussion?

15 Commissioner Mardfin.

16 COMMISSIONER MARDFIN: Yeah. I would like to say
17 I think the developers have done a good job of presenting
18 what they have. I've -- I had several concerns when this
19 project first started. One was whether there was a good
20 appropriate effective demand. I think you've demonstrated
21 that there is. I was concerned about, very concerned about
22 the Kanaha Pond and the effect of endangered species and
23 birds. And your very effective testimony by your
24 consultants have alleviated that concern.

25 I still think it's right on the edge of the pond

1 and not central to Kahului. And while you've done a -- and
2 I would also like to say I'm very glad that you've already
3 worked with the Hawaii Coastal Land Trust in supporting
4 their thing. I think that's an important mitigation.

5 Nonetheless, on Page 3 of the recommendations, it
6 says, "No development shall be approved unless the authority
7 has first found that the development will not have any
8 substantial adverse environmental or ecological effect,"
9 blah, blah, blah. And last time around, I voted against the
10 FONSI. To be consistent with what I did last time, I will
11 vote against this project. I'm reasonably certain it will
12 go through. I think it will be an okay project, but I think
13 it will have significant environmental impacts, so I have to
14 vote no.

15 CHAIR HIRANAGA: Commissioner Wakida.

16 COMMISSIONER WAKIDA: I also have been very
17 pleased with -- well, I've been impressed by the comments
18 made by the community, the professionals about the need for
19 the building. And I think the developers have done a
20 difficult work here in making a building that they feel is
21 attractive. H of the special management area use permit
22 says the proposed project is not contrary to State plan,
23 county general plan, appropriate community plans, zoning and
24 subdivisions ordinances. I feel that the community plan,
25 the Kahului-Wailuku community plan is sacred. I think

1 that's the framework that I work with here.

2 If I don't have that framework, if I don't honor
3 the work that went into that, then it has serious
4 ramifications for whatever decision I make. And I do not
5 feel that this plan because of its position where it's
6 located is in accordance with the community plan. It is
7 smack dab on the edge of an open area. The community plan
8 specifically says larger buildings in the interior of a
9 commercial area. This is obviously not in the interior,
10 although the applicant has argued that it is.

11 But aerial views can -- shows the contrary. And
12 for that reason and that reason alone, I am going to have to
13 vote against the project.

14 CHAIR HIRANAGA: Discussion. Commissioner Lay.

15 COMMISSIONER LAY: Looking at this project, I
16 myself am happy it's going to be something like that and not
17 something else, be it a warehouse, a junkyard, a painting
18 plant or something like that. I love the fact that we're
19 taking .99 acres and throwing into five acres of
20 revitalization for a wetlands. That's a big bonus. Them
21 committing the money even before they had the commitment to
22 build the building is awesome, very awesome. I like this
23 project. The work it will bring up, the facilities it will
24 give to these medical people, it's all in good favor for me.

25 CHAIR HIRANAGA: Commissioner Shibuya.

1 COMMISSIONER SHIBUYA: I'm fully supportive of
2 this project. It has addressed the many environmental
3 concerns, and it has considered many of the safety features
4 that I wanted to ensure that I hope the State DOT will
5 actually implement. I realize that the County does not wag
6 the dog, which is the State DOT. But they stated they
7 wanted to have a six-lane Hana Highway expansion, but on
8 this, we're only seeing the three lanes adjacent right
9 fronting the development, so I'm expecting the third lane on
10 the other side to be added, too.

11 I'm also concerned with little details. The
12 details such as the third lane that is the merge lane from
13 Haleakala onto Hana heading into Kaahumanu, I hope that
14 continues on and does not bulb out, that there will be a
15 straight line right fronting the plaza. Also,
16 accommodations for pedestrians if they're going to catch the
17 bus, make it safe with sidewalks and facilities for the bus
18 stops to accommodate them. The most important part for me
19 is if it is approved, I would like to see construction
20 initiated by August 31st, 2014.

21 I'm not a very friendly person when it comes to
22 requesting extensions. So, I hope you proceed with this
23 project smartly and promptly. Thank you.

24 CHAIR HIRANAGA: Commissioner Sablas.

25 COMMISSIONER SABLAS: This is a tough one. I've

1 stated before that I like everything about this project. I
2 acknowledge the need. And especially if you go to the
3 airport in the morning and you see often times as I do
4 people having to catch the plane to go to Oahu for medical
5 needs, et cetera. And hopefully, you know, this kind of
6 project will address that, so that our Maui population
7 doesn't have to continue to fly to Oahu for their medical
8 needs.

9 And I say it because of the location, because of
10 its environment. But when we had the aerial view, and I
11 look at it now, if you look at it driving mauka toward
12 Wailuku area, it actually enhances the area, because it's a
13 prettier building, and it covers those what I call unsightly
14 industrial areas back there, so that is a positive. But
15 coming driving toward the Kahului airport, you know, you
16 have in a way a negative impact, because it is so close to
17 the major highway there, and then you obstruct the view of
18 Haleakala, but then it's a passing. You know, you'll drive
19 past there, and you don't have the open space. Open space
20 is very, very important to me, and I agree with the
21 sentiments of my colleagues about the general plan.

22 But I think in the end, and I've been listening
23 really intently to a lot of what's going on, I've read, and
24 I serve on this Commission because I really believe I want
25 to make a difference. I really believe I want to speak for

1 the people, many people who are not able to come here. And
2 in this respect, I am going to support the project, because
3 as testimony, a couple of testifiers said, it's a place of
4 healing. And Maui needs the type of place where you can go
5 to take care of your medical needs as your population grows,
6 and we need a facility.

7 I am still not pleased with the location. I'll
8 have to admit that. But you know what, we don't live in a
9 perfect world. We need to move on. If we were to really
10 ask that they would be relocated, it's going to take another
11 five years perhaps. Is it fair to the applicant who have
12 really been I think really diligent in addressing the many,
13 many challenges that have come up? And so, I've said this
14 is a tough one, but I will be supporting the project. Thank
15 you.

16 CHAIR HIRANAGA: Any other discussion?

17 COMMISSIONER BALL: Question.

18 CHAIR HIRANAGA: Commissioner Ball.

19 COMMISSIONER BALL: Mark, the intersection of
20 Kaahumanu where it intersects with Hana Highway, continues
21 on to Hobron, there's that little triangle there. With that
22 new -- was there any study done with that new lane that's
23 going to create the U turn to head back to Paia? Are you
24 following me on that? You're kind of giving me a blank
25 look.

1 The storage lane that's created now to make that
2 U turn, is that blocking the site of the traffic trying to
3 get across the Hana Highway/Kaahumanu there to go towards
4 Hobron? Because right now, it's kind of like there's a stop
5 sign there, and you've kind of got to go for it, right?

6 MR. ROY: Sure.

7 COMMISSIONER BALL: My only concern is that U turn
8 is going to block the site distance up Hana Highway for
9 those people that are trying to race across the Hana
10 Highway. I don't know if somebody can answer that or not.

11 MR. ROY: Would the Chair be okay if I respond to
12 this question?

13 CHAIR HIRANAGA: Yes, you may.

14 MR. ROY: The improvement that Commission Ball
15 references has been studied as part of the traffic impact
16 assessment report that has been completed as part of the
17 environmental assessment process. Those reports have been
18 fully reviewed by State Department of Transportation. And
19 as of this point in time, State Department of Transportation
20 has approved all of the improvements that we've presented
21 today. So, yes, the answer to your question is that that
22 improvement to the U turn has certainly been studied and I
23 believe does not present any implications to any existing
24 traffic movements.

25 CHAIR HIRANAGA: Any other discussion? Seeing

1 none, I'll ask the Director to restate the motion.

2 DIRECTOR SPENCE: The motion is to approve as
3 recommended by staff. Okay. The motion is to approve the
4 special management area use permit as presented and
5 recommended by staff with the 14 standard conditions and 34
6 special conditions project specific.

7 MR. BUIKA: Twenty project specific conditions.

8 DIRECTOR SPENCE: So, approve the special
9 management area major permit for the medical plaza with the
10 14 standard conditions and 20 project specific conditions.

11 CHAIR HIRANAGA: Everyone clear? Call for the
12 vote. All in favor, please so indicate by raising your
13 hand.

14 DIRECTOR SPENCE: That's five aye's.

15 CHAIR HIRANAGA: Opposed?

16 DIRECTOR SPENCE: Two nay's.

17 CHAIR HIRANAGA: Motion carries. We'll take a
18 ten-minute recess and reconvene at 2:30.

19 (Recess taken 2:16 p.m. to 2:28 p.m.)

20 CHAIR HIRANAGA: I would like to call the meeting
21 back to order. Next agenda item is New Business, C(1).
22 Director.

23 DIRECTOR SPENCE: Thank you, Mr. Chairman. This
24 is Tetra Tech, Inc. on behalf of Auwahi Energy LLC
25 requesting acceptance of the final environmental impact

1 statement for the Auwahi Wind Farm. Our staff planner is
2 Mr. Joe Prutch.

3 MR. PRUTCH: Good afternoon, Chair, Commissioners.
4 I'm here with the final EIS for acceptance from your
5 Commission. I'm just going to reiterate some things what
6 you've got. And I'll go ahead and let the applicant do
7 their Power Point presentation. Obviously, this morning you
8 heard from ten testifiers on this project. Most of them
9 seem to be in support obviously of some kind of alternative
10 energy, but there were a lot of concerns raised from those
11 ten testifiers, one of them being endangered birds, plants,
12 compensation to neighbors that were most impacted, noise at
13 the shoreline trail, traffic through Kula and unsafe winding
14 roads from Keokea to Ulupalakua, and possible Section 106
15 trigger, contact with Native Hawaiian groups, and some
16 burials on the property and possible blasting.

17 That was this morning's testifiers. I'm sure
18 we'll have more testifiers now. And then some letters and
19 exhibits that you received. I know you guys have got a lot
20 of paperwork between this project and the other one. I just
21 wanted to reiterate what you've got on this project this
22 morning or throughout the day. You've got written testimony
23 from three different people. You've got one from Senator
24 English, which was in support of the project. You've got
25 one from Mr. Ampong, who was asking for deferring acceptance

1 until Section 106 can be considered. And then you've got a
2 third one from Mr. Mayer, Mr. Dick Mayer, who also asked for
3 deferment of acceptance until, he's got five general
4 categories, that can be answered; which are one is super
5 loads; two is construction traffic; three is construction
6 site; four is the project finances and the benefits; and
7 five is related issues.

8 And I'm sure Mr. Mayer will come up and speak
9 during public testimony. And also, you've got some letters
10 from the applicant. You've got a letter dated July 11th
11 from Tetra Tech, which is the comments to the Planning
12 Department's comments. You've got a letter dated August 8th
13 from Tetra Tech, which shows some minor revisions from the
14 final EIS, mostly typos, but also a revision to the
15 hydrogeology study verifying that there would be some water
16 for water well drilling.

17 And you also got an e-mail from Mitch to Doug
18 McLeod about the drilling of a water well and some of the
19 details of that. I just wanted to make sure you guys knew
20 who you got, who you heard from. And I think at this point,
21 I just feel like handing it over to the consultants.
22 Leilani and Mitch Dmohowski. I'm not sure who else is here,
23 but there's quite a few people. Let them go ahead and give
24 the presentation and some of the responses, and then we'll
25 go from there. Okay.

1 MS. PULMANO: Good afternoon. My name is Leilani
2 Pulmano with Munekiyo & Hiraga. We're the planning
3 consultants for the project. And today, I'm presenting the
4 Auwahi Wind Farm project on behalf of the applicant Auwahi
5 Wind Energy. Today I have with me Sumner Erdman and Pardee
6 Erdman for Ulupalakua Ranch; Mitch Dmohowski from Sempra
7 Generation and a whole list of project team members that I
8 won't go through, but they're listed here today. And
9 they're here to help answer questions.

10 As Joe indicated, we're here today requesting an
11 acceptance of the final EIS for the wind project. I would
12 like to remind you the action on the SMA and the County
13 special use permit will take place at a future meeting. To
14 give you an overview of our presentation, I'll talk about
15 our project description and then kind of go through a few of
16 the key issues that we received on the draft EIS. And we'll
17 go into some questions and comments from the Commissioners.

18 In terms of the project need, Hawaii is the most
19 dependent state on imported energy and has no fossil fuel
20 resources of its own. Approximately 95 percent of Hawaii's
21 energy is derived from imported fossil fuel, mostly in the
22 form of petroleum and coal. This means that consumer energy
23 prices is one of the highest in the nation and makes our
24 state vulnerable to fluctuations in oil prices. In an
25 attempt to reduce the State's dependence on imported fossil

1 fuels, the State required MECO to generate renewable energy
2 equal to 40 percent by 2030.

3 Hawaii also established a Hawaii Clean Energy
4 Initiative with a goal of providing 70 percent of Hawaii's
5 energy needs through renewable resources by 2030. In
6 addition, the Global Warming Solution Act requires Hawaii's
7 greenhouse gas emissions to reduce to levels at less than
8 1990 levels. These mandates are all for MECO to achieve,
9 and the wind farm project will help to meet these mandates.
10 As of December 2010, about 26 percent of MECO's energy needs
11 are from renewable energy sources.

12 The Auwahi Wind Farm project will produce 21
13 megawatts of clean renewable wind energy for Maui Island,
14 which is enough to provide electricity for about 10,000
15 homes and reduce greenhouses gases on average by about
16 76,000 tons per year. The power generated would provide
17 long-term price stability for consumers. Additionally, the
18 ranch, Ulupalakua Ranch would continue to use the land for
19 cattle ranching. The project is located in Ulupalakua
20 region. Let me just highlight where this is. The purple
21 dot is the wind farm site.

22 And on the regional location, this roadway here is
23 the upcountry highway. And the Tedeschi Winery is located
24 here. The wind farm site is about seven miles from the
25 winery. Further east is the Kahikinui Homestead. So, there

1 are three main components to this project. One is the wind
2 farm site, which I'll talk about next. The second is the
3 transmission line, which is signified by this line here. It
4 connects to the interconnection substation and crosses both
5 Ulupalakua Ranch lands in here and to the Wailea area. The
6 interconnect substation includes the substation itself, the
7 battery energy storage facility and the microwave
8 communication tower.

9 The third component is a construction access
10 route, and there are two routes, one through Wailea-Makena
11 using Piilani Highway through Wailea-Makena up along Papaka
12 Road and this blue line. The other will use Kula Highway,
13 which is this road here. In terms of the wind farm site,
14 the original plan called for about -- up to 15 wind turbine
15 generators. The current plan calls for eight Siemens 3.0
16 wind turbine generators mainly to reduce impacts to
17 cultural, visual, biological and construction traffic.

18 Also, on the site is the electrical collection
19 system, which is the green dotted line and an operations and
20 maintenance building located here and a permanent
21 meteorological tower, access road, which is the white lines,
22 and a portion of the transmission line. The project has
23 been modified based on the draft EIS and additional
24 mitigation measures incorporated into the project.

25 The modifications reduce impacts to archeological,

1 biological, construction traffic and visual resources. So,
2 the first change was the selection of the Siemens 3.0, which
3 requires only eight turbines. The draft EIS evaluated up to
4 15 turbines. And with the selection of the Siemens 3.0, the
5 collector switch yard is no longer needed, because the
6 component itself is integrated into the turbine. The
7 alignment of the access road to the wind farm site was
8 altered to follow an existing ranch road. And the alignment
9 of the transmission line now follows an existing ranch road
10 also.

11 And the construction route, which I talked about
12 earlier, was distributed to use both Kula Highway and
13 Wailea-Makena areas, and this was to reduce traffic impacts
14 to the Wailea and Makena communities. So, the last time I
15 was before you, the Commission had 25 comments plus 13
16 comments from Dick Mayer in the draft EIS that we needed to
17 respond to. And you have the letter in front of you. Our
18 responses to the comments are also included in the Appendix
19 K(1) of the final EIS. And today I want to focus on just a
20 few of those comments.

21 And one of the key comments that we received on
22 the draft EIS was about the construction traffic through
23 Wailea and Makena. So originally, there was -- our
24 construction route showed from the harbor through Mokulele
25 Highway to Piilani Highway through Wailea-Makena up through

1 Papaka Road to the wind farm site. So, the first thing we
2 did was actually meet with the communities, the Wailea and
3 Makena communities. And there's a meeting summary that's
4 included as part of your final EIS in Appendix K(2).

5 One of the mitigations -- the first mitigation
6 measure we did to reduce traffic impacts was to distribute
7 that portion of traffic to also use Kula Highway, which is
8 this highway here. Kula Highway unfortunately is not able
9 to use the super load. We won't be able to traverse the
10 super loads through that area mainly because of the Keokea
11 area. But for regular construction traffic, construction
12 workers getting to go to the site, semi-trucks, dump trucks,
13 they could use that road. Those truck trips were
14 distributed using Kula Highway.

15 Another mitigation measure was the reduction of
16 the turbines from 15 to eight. And this reduced the
17 original super load trips from 114 trips to 56 trips. Each
18 turbine would require seven separate super loads. So, to
19 transport all of the super loads, it will take a total of
20 eight separate days. And we do have an outstanding request
21 with the Wailea Community Association, they've asked us to
22 see if we could do all truck traffic trips through the
23 community from 8 a.m. to 8 p.m. Monday through Friday, so
24 we're communicating with all of the different agencies to
25 see if that's possible or not.

1 The third mitigation measure was to use water from
2 the onsite well. And this basically removes all of the
3 water truck trips from either using Wailea-Makena roadways
4 or Kula Highway. Besides the mitigation measures, Sempra
5 has also started discussions with the concrete companies to
6 understand the potential concrete traffic impacts. The
7 concrete companies indicated that there would be eight days
8 of a maximum 40 round trips of concrete trucks to complete
9 the foundations of the wind turbine generators.

10 Plus another eight days of five additional round
11 trips to complete the pedestal installation. And just to
12 note, the super loads in the concrete trucks will not be in
13 transit in the same day. We are still trying to determine
14 where the concrete trucks are going to be coming from. It
15 really all depends on which concrete company we end up
16 utilizing. There's only two on the island. So, members of
17 the Wailea-Makena community also asked the applicant to
18 extend Piilani Highway as an alternative roadway. And
19 there's a discussion in the final EIS about the alternative
20 roadways.

21 And just to give you a high level discussion here,
22 Kula Highway is Route 1, which we are using for the legal
23 loads. And Route 2, the red line, extends Piilani Highway
24 directly mauka of the Wailea Resort and Wailea golf courses.
25 Route 3 extends Piilani Highway mauka and then makai to

1 Papaka Road. This is Papaka Road. And Route 4 in brown
2 extends Piilani mauka to connect to Ulupalakua Road. And
3 each of these routes were analyzed. And in general, the
4 three alternatives would increase impacts to natural and
5 environmental resources and create additional construction
6 impacts. So, the existing routes, roadways of Wailea-Makena
7 and Kula Highway would create less impacts than these
8 alternatives.

9 Another key comment was the visual impacts. In
10 this picture is of a typical Siemens wind turbine generator.
11 The light gray color is required by FAA for safety reasons.
12 And to mitigate for visual impacts, the applicant did choose
13 the Siemens 3.0, which reduces from the turbines from 15 to
14 eight. And as you travel up the upcountry highway, at this
15 point here towards Kaupo, you'll see the turbines makai of
16 the highway.

17 And this picture actually shows the 15 as
18 originally designed. And in contrast, as you travel towards
19 Kula on the highway, this simulation shows the current
20 design of the eight wind turbine generators, and it also
21 shows the impacts of the overhead collection line and the O
22 and M building. This is the overhead collection line, and
23 here is the O and M building. And you can see the wind
24 turbine generators.

25 This photo I thankfully got from the Planning

1 Director there. It's beautiful. This photo is taken from
2 Nu'u Bay looking towards the wind farm site. And this
3 hill -- this hill is within the Auwahi parcel. And the wind
4 turbine generators will be located makai of the hill.

5 So, just to give you a perspective, it's about
6 eleven miles from Nu'u Bay as we're looking here. It's
7 about the same distance if you're looking to Wailea to
8 Kaheawa wind farm. And also wanted to note if you're at the
9 opposite end of Haleakala southwest rift in Makena-Wailea,
10 you won't be able to see the wind farm because of that rift.
11 This visual simulation shows the transmission lines crossing
12 the upcountry highway. And these poles are typical 50 foot
13 transmission lines. And the poles will be wood.

14 Sempra did analyze undergrounding the transmission
15 line. The undergrounding would result in higher ground
16 disturbance, and the additional trenching would result in
17 greater impacts to archeological and biological resources
18 than constructing an overhead line. Another key comment was
19 on the habitat mitigation. The project has a potential to
20 result in incidental take of listed species. The listed
21 species are the Hawaiian petrel, the nene, the Hawaiian
22 hoary bat and the Blackburn Sphinx Moth.

23 The applicant has submitted an application for
24 incidental take permit and incidental take license with the
25 U.S. Fish and Wild Life and the State of Hawaii Department

1 of Forestry and Wild Life commonly called DOFAW. And they
2 will need to approve both those incidental take permit and
3 incidental take license.

4 These permits require a habitat conservation plan,
5 and the goal of the habitat conservation plan is to provide
6 a net benefit for each of these species. The applicant has
7 been working with both of those agencies for a year and a
8 half and are pleased with the habitat conservation plan that
9 they've come up with.

10 First off in terms of the habitat conservation
11 plan, there are measures to avoid and minimize the potential
12 take of the listed species, and I won't go through all of
13 them here. I'll just highlight a few. One is the rare and
14 culturally important native plant species will be avoided.

15 A project biologist will be on staff during
16 project operations to conduct monitoring surveys, to assist
17 with mitigation measure, and to address any potential wild
18 life issues. And to minimize potential impacts to bats,
19 woody plants greater than 15 feet tall where they may roost
20 will not be removed or trimmed between May 15th and August
21 15th. And the permanent met towers will be fitted with bird
22 flight diverters. So, this map shows the existing forestry
23 reserves in the areas and the project mitigation areas.

24 For bats, the mitigation area is Waihou located
25 here, and that's where fencing and restoration work will be

1 done. For the petrels, Kahikinui Forest project is outlined
2 here in this white. The project will have predator control
3 measures in this location here and monitoring of petrels.

4 For the Nene, the applicant will contribute
5 funding for the management of the Nene at the Haleakala
6 National Park, which is outlined in brown. For the moth,
7 funds will be provided for the Auwahi Reforestation project,
8 which is located here.

9 Another key comment was on the community benefits.
10 The community benefits was designed to provide to the most
11 affected stakeholders, which were identified as the
12 surrounding residents. So, Sempra and Ulupalakua Ranch have
13 been working with the Kahikinui Homesteaders and DHHL to
14 identify community benefits to help offset the impacts to
15 their rural community. The discussion and the benefits are
16 included Appendix M of the final EIS, and I'll just
17 highlight a few here. The Kahikinui residents identified
18 water as one of their major issues for their homestead.

19 And to help solve this, Sempra has commissioned a
20 study which you have in front of you. And the study found
21 that ground water is a potential source in the area. So,
22 they're moving forward with drilling a test well to confirm
23 the capacity and the quality of the source. And if the test
24 well finds the capacity and quality of the source to be a
25 potable water source, they'll move forward with a permanent

1 well for both their project and the surrounding neighbors.
2 Another benefit that has been identified to help the
3 surrounding community is roadway improvements within the
4 Kahikinui Homestead. Data identified that roadways within
5 their subdivision to be another major issue. And with the
6 heavy equipment already mobilized, Sempra and DHHL can help
7 work together to leverage some funds to improve their
8 roadways.

9 And just to let you know that Sempra has already
10 provided funding to Leeward Haleakala Watershed Restoration
11 partnership for their continued efforts on the Auwahi
12 Reforestation project. So, this concludes my presentation.
13 And we're here, the project team is here to answer any
14 questions you may have. And again, we're here asking for
15 acceptance of the final EIS. And we'll be before you again
16 on the SMA and the County special use permit. Thank you.

17 CHAIR HIRANAGA: At this time, we'll open the
18 floor to public testimony. We have a sign-up sheet here.
19 Gerald Hokoana. Please identify yourself, and limit your
20 testimony to three minutes.

21 MR. HOKOANA: My name is Gerald Hokoana, and I'm a
22 lessee out at Kahikinui Homestead. Actually, I'm very glad
23 to hear what she had just said, because you know, a
24 representative from Sempra met with our homestead president.
25 And you know, there were some assurances with regard to road

1 and water and the possibility of getting electricity, but
2 you know, we have not heard, you know, since that initial
3 meeting, there's been nothing that we've received in writing
4 as to exactly what the community benefits are going to be.

5 I know this -- I mean from what was just
6 mentioned, it seems that that's been addressed. But I think
7 what we would like to see is Sempra, you know, meet with the
8 community and, you know, come up with some kind of written
9 agreement as to what the community benefits package that we
10 will receive is actually, you know, put in place. So,
11 having -- you know, that's basically, you know, what I had
12 intended as far as my testimony today.

13 You know, we don't have really any issues with the
14 project. It's just that, you know, aside from the people
15 out in Kaupo and, you know, possibly Kipahulu and us, I mean
16 we're going to be the ones seeing those wind towers. And
17 you know, so we need to be assured that, you know, there's
18 some benefit for us versus -- and, you know, I mean it's
19 great. The ranch is going to generate income off of that
20 and, you know, they should. It's their land. And we don't
21 have a problem with the use of their land. In fact, they've
22 been a good neighbor.

23 So, anyway, having said that, if we can, you know,
24 arrange a meeting that kind of clearly defines, you know,
25 what we can expect, that's really, you know, why I'm here

1 today. I talked to Iamoku Pali, who is the president of the
2 homestead association. And as far as he is aware, there
3 hasn't been any real discussions as to, you know, the
4 benefits to the community.

5 COMMISSION SECRETARY: Three minutes.

6 MR. HOKOANA: That's pretty much it.

7 CHAIR HIRANAGA: Questions, Commissioners?
8 Commissioner Mardfin.

9 COMMISSIONER MARDFIN: Do you know approximately
10 how far your place is to the closest tower?

11 MR. HOKOANA: We're at the 23 mile marker. I
12 think the proposed location is where they have the corral,
13 which I would guess is probably three miles away.

14 COMMISSIONER MARDFIN: So, you're not worried
15 about sound being a problem being that far away?

16 MR. HOKOANA: No. And as far as visually, I mean
17 I guess that they're going with the less towers, it's going
18 to be the bigger units, which will go up higher. And, you
19 know, I mean as far as from my lot, I won't be able to see
20 it, because you've got Lualailua. But those are in the
21 elevations of about 3,000, 3,500, you know, they may see it
22 from there.

23 Certainly, you know, as we're going in and out,
24 we're going to see it. And it's not like looking from here
25 up to Kaheawa. I mean it's off the highway, and it's makai.

1 So, you know, I mean.

2 COMMISSIONER MARDFIN: Are there any homesteaders
3 that live -- the homesteaders, I don't know who it would be,
4 but the homesteader who lives closest to this, any idea how
5 far they would be away from it?

6 MR. HOKOANA: About the same.

7 COMMISSIONER MARDFIN: So, everybody is about
8 three miles?

9 MR. HOKOANA: Yeah, about three miles.

10 CHAIR HIRANAGA: Commissioner Sablas.

11 COMMISSIONER SABLAS: Mr. Hokoana, when you say
12 community, what's it comprised of, your community,
13 Kahikinui?

14 MR. HOKOANA: Kahikinui homestead consists of
15 about -- originally it was supposed to be about 108 lots.
16 There's only 75 that have actually been awarded. And my
17 guess as far as the number of lessees that have actually
18 built out theirs, anywhere from 10 to 20. I'm -- I'm way
19 down. I'm on Lot 6, which is closest to the highway, so I
20 don't go up that road that everybody has to deal with.

21 And so I'm not as familiar as to who lives where.
22 I mean obviously they pass in front of my place to go up and
23 down, you know, to their property.

24 COMMISSIONER SABLAS: If I may ask a followup
25 question. Again, I was trying to determine when you say

1 community, so the applicant would know, who would they
2 consider your community? Is it the homesteaders -- if I
3 could finish -- the homesteaders as well as Kaupo, what
4 would you consider the community members? And is there -- I
5 know Iamoku Pali. And they could call a meeting so the
6 members could meet with the applicant and address the issues
7 that you had mentioned earlier.

8 MR. HOKOANA: I'm only here to address, you know,
9 Kahikinui's homestead, you know, request. As far as the
10 residents of Kaupo and Kipahulu, you know, they would have
11 to speak for themselves. The person that, the current
12 president of the homestead association is Iamoku Pali, and
13 he would be the person along with the other board members
14 that Sempra should meet with.

15 COMMISSIONER SABLAS: Okay.

16 MR. HOKOANA: I actually contacted them because I
17 wanted to be sure that they didn't have a problem with my
18 giving testimony here. Because at one time, I was on the
19 board. In fact, it was for a few years. And they had
20 recurring board members along with Mo Moler and Henry
21 Kahula, and I think -- I'm not sure if Chad is still on the
22 board, but those would be the people that, you know, that
23 Sempra should meet with in trying to finalize some kind of a
24 community benefits package for Kahikinui.

25 COMMISSIONER SABLAS: Thank you.

1 CHAIR HIRANAGA: Any other questions for the
2 testifier? Seeing none, thank you. The next individual is
3 Doug McLeod.

4 MR. McLEOD: Good afternoon, Commissioners. My
5 name is Doug McLeod, and I'm the Energy Commissioner for the
6 County. I'm here today to speak on behalf of the Mayor's
7 Office and the Office of Economic Development about this
8 project, and I also think it's probably good timing, because
9 one of the main topics is community benefits. I can
10 probably answer some of the questions from the prior
11 testimony.

12 So, this is a project that we started looking at
13 this May or in January, but it's a very old project.
14 There's a lot of history here. Many of you know, this was
15 originally a project by Shell. And we've looked at it as a
16 project that's evolved over the years, and it has to be
17 looked at as one of the number of wind farms that we're
18 dealing with. And with each of the wind farms, the Mayor
19 has asked for community benefits to be part of the analysis
20 for all new wind farms.

21 So, what we're looking for in community benefits,
22 it's kind of an evolving process, and what we would expect
23 to see, I don't think there's a simple financial formula
24 necessarily, because we would look at, for example, if it
25 was a wind farm to serve Oahu rather than Maui. This

1 particular project in front of you is power for Maui. And
2 the -- as we attended the various community meetings around
3 the island, and I should probably just say that Rob Parsons
4 also from the Mayor's Office and Cal Kobayashi, we attended
5 all of the public meetings. We also met with a number of
6 the environmental groups to ask specifically if they had
7 concerns on the project.

8 Again and again, Kahikinui was identified as the
9 community that really could benefit if this project was done
10 correctly. And the gentleman indicated that he didn't feel
11 there had been anything final put in writing. And I can
12 understand that, because what I'm going to read out of was
13 actually dated yesterday. And the process here again goes
14 back into January. But from the beginning, we have asked
15 them to focus on the well and the possibility of drinking
16 water up there.

17 That is both a large financial outlay on the part
18 of the developer and also more importantly something that
19 meets an immediate and pressing need for the people up
20 there. Let me go ahead and read into the record if I may.
21 This is an e-mail dated 8/8/2011. It's from Mitch
22 Dmohowski, who I believe is in the audience. And let the
23 record show he is in the audience and would presumably speak
24 up if any of this is inaccurate.

25 It's indicating this is a commitment to drill a

1 well that is backed by Sempra, that Sempra has submitted a
2 well permit application on August 1st, that they intend to
3 secure permits by November to start drilling, that they will
4 construct a well designed to be large enough for the current
5 and expected future drinking water needs of Kahikinui
6 homesteaders. They would provide treatment needed for the
7 water to meet drinking water standards.

8 COMMISSION SECRETARY: Three minutes.

9 MR. McLEOD: They will provide electrical power to
10 operate the well at no cost and that they're working on how
11 to transmit the water to Kahikinui. They indicated one of
12 the options would be to provide a filling station at the
13 scenic overlook turn-out. They also indicate if for some
14 reason --

15 CHAIR HIRANAGA: Please conclude your testimony.

16 MR. McLEOD: Anyway, our testimony is here that we
17 strongly support this project, and we do feel that the
18 community benefits. Once we take into account the specific
19 commitments that they're now making to actually drill a well
20 do represent significant community benefits and that we
21 should support the project. It also, of course, serves our
22 renewal energy goals as well. And if there are any
23 questions, we can certainly answer those. Sorry for the
24 long testimony.

25 CHAIR HIRANAGA: Questions, Commissioners?

1 Commissioner Mardfin.

2 COMMISSIONER MARDFIN: Yeah. Continue with the
3 water. They're not going to be charged for the water did
4 you say?

5 MR. McLEOD: Yeah. Here is our understanding is
6 that the company Sempra is committing to provide electricity
7 to power the well, to build the well and to ensure that the
8 water coming out of the well meets drinking water standards.
9 They're going to transmit it some part of the way to the
10 homesteaders' homes. I do not believe that they're
11 proposing piping to the individual homes. I believe they're
12 proposing some kind of a central storage.

13 My understanding is that will still be a major
14 improvement on the situation today on how they're getting
15 water.

16 COMMISSIONER MARDFIN: A followup. Have they made
17 any commitment to provide electrical energy to the homes?

18 MR. McLEOD: It's listed in the community benefits
19 as something to explore. What they've indicated to us is
20 that they're going instead to focus on the well, that when
21 they went up there and talked to the residents, they found,
22 in fact, many of them were pretty advanced as far as systems
23 for renewable energy and backup. And so, that's the
24 explanation we were given.

25 COMMISSIONER MARDFIN: Thank you.

1 CHAIR HIRANAGA: Commissioner Shibuya.

2 COMMISSIONER SHIBUYA: In terms of the water, who
3 owns the water?

4 MR. McLEOD: The well here is being drilled on
5 Ulupalakua Ranch land. And the intent is that it would be
6 directly below Ulupalakua Ranch.

7 COMMISSIONER SHIBUYA: So, who owns the land -- I
8 mean the water?

9 CHAIR HIRANAGA: The State does.

10 MR. McLEOD: I don't know other than who would
11 generally own the water.

12 COMMISSIONER SHIBUYA: I'll give you the answer.
13 It is a State -- it's a State resource. And we have a
14 Supreme Court ruling on that, that the water resource no
15 matter where it is in Hawaii, it belongs to the people. So,
16 I just wanted you to know that if you do drill and it is
17 successful, that it be -- the well head capacity as well as
18 the condition be registered with the water department so
19 that can be part of the total water aquifer, if you will,
20 equation.

21 We need to do some kind of an inventory and
22 accounting for this. And if we don't do this, then I think
23 we've lost sight of our managing many of these essential
24 resources.

25 Changing back to energy, some of these community

1 benefits are not investment benefits in my view. Investment
2 is something you receive the money, and you can reinvest it
3 and it develops more income or more potential to generate
4 more. Once you give it, let's say you give the money -- I'm
5 not advocating against doing this, but if you -- it's just
6 an example. If you give the money to a hungry person, that
7 person is satisfied one day.

8 If you give the money to show him how to raise his
9 food, then you've invested in his sustaining himself. You
10 see that? And that's what we need to start looking in terms
11 of if we have the energy, we have the income, how do we
12 bring it back so that we can invest it into these folks so
13 that they can become less dependent, become more self
14 sustaining?

15 CHAIR HIRANAGA: Are you asking a question,
16 Commissioner Shibuya?

17 COMMISSIONER SHIBUYA: Yes, I am. I am asking
18 what are some of those initiatives that you have for
19 community benefits?

20 MR. McLEOD: You know, again, turning to the
21 specific proposal here, I would just be blunt with the
22 Commission and say that we are really looking at the well as
23 the primary thing in the package. There's obviously a
24 package. It has a lot of elements. As far as beyond this
25 particular wind farm, we are talking with people that are

1 proposing much larger wind farms, some of which would serve
2 Oahu. We are having a discussion with them about things
3 like, for example, the model of Alaska where there's a
4 permanent fund or there's royalty streams.

5 And so, that is a very general discussion. I
6 would love to have it with you guys in another forum. But
7 as far as this specific wind farm you have in front of you,
8 our calculation was based both on the age of the project,
9 that it would be unfair to impose that here, and also the
10 size of this project wasn't, you know, the -- it wasn't
11 worth trying to come up with something that would be kind of
12 a royalty for the County or broader for residents.

13 COMMISSIONER SHIBUYA: Thank you.

14 CHAIR HIRANAGA: Commissioner Mardfin.

15 COMMISSIONER MARDFIN: You're the Energy
16 Commissioner, so I think you're the person I should ask this
17 of. There have been a number of people that have provided
18 written testimony asking what will happen to the electrical
19 rates in Maui charged by MECO to rate payers throughout the
20 island. Do you have an answer to what impact this is likely
21 to have?

22 MR. McLEOD: Yes. It's a really fair question,
23 and I'm going to give you a little about it of a roundabout
24 answer. And that is historically, I think people have
25 oversold the idea that somehow electric bills are going to

1 drop.

2 What is possible with renewable energy is get to a
3 point where prices can be fixed or leveled out. But to
4 really suggest that by doing this project that we're going
5 to actually lower people's rates is probably not realistic.
6 And the reason is simply that the percentage of renewables
7 that we're dealing with is still well below 50 percent. So,
8 as long as the oil price is the primary driver, you can't
9 guarantee anyone that their rates are going to drop until we
10 have a much higher overall percentage of renewables. Sorry
11 for the long-winded answers, Chair.

12 COMMISSIONER MARDFIN: This company is proposing
13 21 megawatts per year. The one up above is what?

14 MR. McLEOD: This is the same size as Kaheawa at
15 21 megawatts.

16 COMMISSIONER MARDFIN: And they're proposing a
17 third one up there?

18 MR. McLEOD: There's an expansion phase of
19 Kaheawa, that's right. So basically, we're going to be
20 looking at between these three closer to 70 megawatts of
21 capacity total by the time it's all done. Now, again, the
22 way it works, that's a name plate capacity. And at a really
23 good location like this, you get a 40 percent capacity
24 factor. And that's how we generally do the math in our
25 office.

1 COMMISSIONER MARDFIN: And assuming the 40 percent
2 with three projects on line all of about 21 megs each, what
3 percent of the generated electrical usage would that cover
4 roughly?

5 MR. McLEOD: In the best case scenario, which will
6 be a daytime on a windy day, currently MECO says they're
7 getting 30 to 40 percent. I would expect with this project
8 we could be getting 40 to 50 percent. That's under ideal
9 conditions. That's not a 24-hour average. When you start
10 talking about nighttime, you know, right now we have a
11 curtailment issue. This particular project has a reasonably
12 innovate battery system that has different specs for up-ramp
13 and down-ramp. And that should help to manage the power
14 going to the grid.

15 COMMISSIONER MARDFIN: Thank you very much.

16 CHAIR HIRANAGA: Commissioner Shibuya.

17 COMMISSIONER SHIBUYA: Can you share with us the
18 possibility if there is a possibility for expanding current
19 facilities and the capacity?

20 MR. McLEOD: Yes. You know, the site itself is an
21 excellent location in terms of the wind resource. I
22 understand there are other concerns, and I don't mean to put
23 those down. But it's a great site. It could accept quite a
24 bit more. There is a plan for a transmission line coming
25 off of the Ulupalakua Ranch. As the Commission is probably

1 aware, Ulupalakua is separately looking at geothermal
2 possibilities. In the event that the geothermal, for
3 example, were not to occur, you would have quite a bit of
4 extra capacity potentially on a transmission line. And you
5 could take either more wind or solar or something else off
6 of Ulupalakua Ranch. I think that's a fair statement.

7 COMMISSIONER SHIBUYA: Yeah. The sample picture
8 of the transmission line shows a very large capacity to me
9 in my eyes. So, I was thinking there was an expansion
10 possibility, and you've answered that for me. Thank you.

11 CHAIR HIRANAGA: Any other questions,
12 Commissioners? Commissioner Mardfin.

13 COMMISSIONER MARDFIN: At our last meeting when we
14 looked at the draft environmental impact statement, there
15 was concern. We had major questions about whether it's
16 better to build the towers, the turbines makai of the
17 Piilani Highway or mauka. Do you have any feelings on that?

18 MR. McLEOD: I have been out to the site, and I
19 can only answer again in terms of energy potential. But I
20 think the way the wind kind of sweeps down that ridge, that
21 actually being closer makai actually gives them more power.

22 COMMISSIONER MARDFIN: Thank you.

23 CHAIR HIRANAGA: Any other questions? Seeing
24 none, thank you. Next testifier, Pard Erdman.

25 MR. ERDMAN: Yes. My name is Pardee Erdman from

1 Ulupalakua Ranch. And you know, I would say we -- one of
2 the reasons why we have gone this route is that we want to
3 keep the ranch going. That when we bought the ranch, we had
4 to acquire lots of debt. We sold Maui Meadows, and then in
5 1973, we sold the land to Seibu.

6 And we would like to keep it where we didn't have
7 to sell out more land. But farming, especially ranching, is
8 not a lucrative operation. So, we need to find other
9 sources of income. And this is one that works where we
10 thinks it's a win-win for us, and it's a win-win for Maui.
11 We're glad to be working with Sempra on it. We worked first
12 with Shell. And it's unfortunate that they walked away with
13 a very bad feeling, so we hope this time around something
14 will happen that will be positive.

15 Other than that, I have not much more to say on
16 the subject other than we support it. Any questions that
17 any of you would like to ask?

18 CHAIR HIRANAGA: Questions, Commissioners?
19 Commissioner Mardfin.

20 COMMISSIONER MARDFIN: Yeah. The previous speaker
21 said something about geothermal possibilities. Can you fill
22 us in on any of that, or is that speculative?

23 MR. HOROVITZ: Yes. Well, we've had people
24 leasing for geothermal for almost 30 years. But the latest
25 group thinks that they have a better chance. They're the

1 ones who are doing some on the Big Island. And it's still
2 in the exploration stage, and this takes a long while to get
3 going. I mean we talk about drilling a water well. And
4 you're, you know, we think we'll hit water.

5 But I'm a geologist myself, and I know what the
6 chances are. If you got down there at sea level and you
7 were in blue rock, you might have a very hard time
8 developing the water. But geothermal, it's going to take a
9 long while to figure out whether you have the resource or
10 not. More drilling.

11 COMMISSIONER MARDFIN: Thank you very much.

12 CHAIR HIRANAGA: Commissioner Sablas.

13 COMMISSIONER SABLAS: Mr. Erdman, I recall reading
14 in your report that you mentioned about an under -- a very
15 sophisticated underwater I guess, you know, through the lava
16 tubes that could have really provided water in that area in
17 times of past. Could you elaborate on that?

18 MR. ERDMAN: You know, my son would be better apt
19 to answer that one, because he's done more of the work with
20 the archeological studies out there. But there is a water
21 tube, a cave with water in it.

22 COMMISSIONER SABLAS: But obviously, it's dry,
23 right?

24 MR. ERDMAN: No, there's some water, but it's not
25 the type of water that's going to be -- you know, let's say

1 when there was nothing else out there, yes, they could have
2 gone in and gotten a gourd full of water and that type of
3 thing, but it's not a real water resource.

4 COMMISSIONER SABLAS: Thank you.

5 CHAIR HIRANAGA: Commissioner Shibuya.

6 COMMISSIONER SHIBUYA: Mr. Erdman, I want to thank
7 you for being a good patron of our 'aina. You've donated a
8 huge sum of land to encourage agricultural developments and
9 that type of livelihood. You've now come up with both this
10 energy sustaining type of projects. Mahalo.

11 MR. ERDMAN: Thank you.

12 CHAIR HIRANAGA: Any other questions for
13 testifiers? Seeing none, thank you.

14 DIRECTOR SPENCE: I want to thank the Chairman for
15 indulging me just for a moment. I've got a run off for
16 another meeting. I'm not sure how long that's going to
17 take, and I'll turn it over to Clayton. I just want to
18 remind the Commissioners what's before you today is the
19 acceptance of the EIS, and if the Commission believes that
20 the document discloses sufficient information as is required
21 by law. What are the impacts, what are the mitigation
22 measures, are those things adequate; and then, you know,
23 the -- so, the decision before the Commission is this
24 document adequate.

25 And keeping in mind, they're going to come back

1 for a County special use permit and an SMA permit at that
2 time. I listen to a lot of the questions that Commissioners
3 have, and I appreciate the directions you're going. You're
4 concerned about, well, what about, you know, construction
5 traffic, et cetera.

6 Those are going to be the places -- the SMA permit
7 and the County special use permit is going to be the place
8 to place conditions. There's no room to place conditions on
9 the acceptance of an EIS. All you're asking is are the
10 impacts disclosed, are the mitigation measures disclosed, or
11 is there more information needed? So, when we get to the
12 actual permits that will be before this Commission, there
13 will be lots of opportunity to place conditions to mitigate,
14 you know, things that have been disclosed here. And I think
15 that probably is the more appropriate place to go with some
16 of the questions being asked.

17 COMMISSIONER MARDFIN: Mr. Chairman, may I ask the
18 Director a question?

19 CHAIR HIRANAGA: You may.

20 COMMISSIONER MARDFIN: I take your point and
21 I'll -- that doesn't mean I'll stop asking questions.

22 DIRECTOR SPENCE: I understand that.

23 COMMISSIONER MARDFIN: I do take your point, but
24 there was one thing -- there was some testimony this morning
25 alleging that the EIS might not be complete because they

1 didn't do Section 106 NHPA analysis in it. Would you have a
2 comment on that?

3 DIRECTOR SPENCE: I'm going to let the
4 applicant -- we had a little bit of a discussion at one of
5 the breaks -- I'll let them address that particular issue.

6 COMMISSIONER MARDFIN: Because that would deal
7 with adequacy of this document it seems to me.

8 DIRECTOR SPENCE: Okay.

9 COMMISSIONER MARDFIN: Okay.

10 DIRECTOR SPENCE: I personally believe that the
11 impacts are disclosed, and they should go forward on to the
12 permitting stage of this project. I think it's a good
13 project for Maui's future.

14 COMMISSIONER MARDFIN: Thank you very much.

15 DIRECTOR SPENCE: So, thank you, Mr. Chairman, for
16 indulging me.

17 CHAIR HIRANAGA: Continuing with the public
18 testimony, Clyde Hayashi.

19 MR. HAYASHI: Aloha, Chair Hiranaga, Vice-chair
20 Shibuya and Members of the Commission. My name is Clyde
21 Hayashi. I'm the director of Hawaii LECET. It's a
22 partnership between the Hawaii Labor Union and union
23 contractors. I'm giving this testimony in strong support
24 for the request for acceptance of the final EIS for the
25 Auwahi Wind Farm. The wind farm will create much needed

1 jobs for Maui members and contractors. The Maui building
2 industry continues to struggle, and the construction on Maui
3 is the worst of any county that's reported in the UHERO
4 forecast reporting in May of 2011.

5 A number of our members just the past week let us
6 know that they've been unemployed for two years. It's
7 extremely hard on their families. Very sad to see people
8 that are ready to work, want to work, but there are no jobs
9 available. The 21 megawatts of energy produced will
10 hopefully take us closer to our goal of not being dependent
11 on fossil fuels and help lower our production of greenhouse
12 gases. Our members and families were hit hard when the oil
13 prices went up over \$140 a barrel a couple of years ago.

14 We had members who weren't working, had their
15 electricity turned off and were in danger of having their
16 electricity turned off. So, we hope -- we support this
17 project for the jobs, but also for the fact that it takes us
18 away from dependence on foreign oil, away from being so
19 vulnerable to increases of foreign oil. Barron's newsletter
20 recently said to prepare for \$150 a barrel.

21 And we haven't seen that. We saw \$147 a few years
22 ago, and that was disastrous. Again, we support this
23 project. Thank you for the opportunity to support this
24 testimony.

25 CHAIR HIRANAGA: Questions, Commissioner? Seeing

1 none, thank you,

2 MR. HAYASHI: Thank you.

3 CHAIR HIRANAGA: Next individual is Peter Iriarte.

4 MR. IRIARTE: Aloha, Chair and Members. My name
5 is Peter Iriarte. I'm a field representative for the
6 mason's union. I'm here to ask for the support of accepting
7 the EIS for this wind farm project. We believe that this
8 project is -- pretty much with all the information that I'm
9 hearing and are gathered by the company that's going to be
10 proposing this project, it's a good project for us. We,
11 too, echo the membership here on Maui. We are about 95
12 percent unemployed, and we've been unemployed for that
13 duration for the last two and a half years.

14 We do have members that I just sent out to work.
15 It was about a month ago. And one of the members that we
16 did send out to the project out in Maui Lani said, "Hey,
17 Peter, thank you so much for the work that's here."

18 It's the project for the Paradise Beverage that's
19 being built in Maui Lani industrial. And he looked at me,
20 and, you know, it was kind of sad, because here is a guy.
21 I've been working all these years and representing the
22 membership. But then we have a guy, a member to comes in,
23 and he's been trying to make ends meet all over the place.
24 They've applied at stores. They've lost their unemployment.
25 We're hoping that projects like this that are coming forward

1 can be built, can be worked on so that we can get our
2 members out here to go ahead and reap and get back to their
3 normal lives.

4 We do have and we've exhausted, a lot of our
5 members here on Maui exhausted their annuity for their
6 future, their pensions, that kind of stuff. That's gone.
7 And now they're looking for second servings. We don't know
8 where we're going to get them. The only thing we can ask is
9 if the acceptance of this project goes forward, it's another
10 opportunity for them to have good economic times for
11 themselves and their family. That's what we ask, and we ask
12 for your consideration and support in addressing and
13 accepting the EIS for this project. Thank you.

14 CHAIR HIRANAGA: Questions, Commissioners? Seeing
15 none, thank you.

16 MR. IRIARTE: Thank you.

17 CHAIR HIRANAGA: Next testifier, Lumomi Johnson.

18 MS. JOHNSON: Good afternoon. My name Lumomi
19 Johnson. I am the Maui field representative for the Hawaii
20 Laborer's Union Local 368. The Hawaii Laborer's Union Local
21 368 has over 400 active members and retirees who call Maui
22 County their home. It is on behalf of our members and
23 families that I testify. I am submitting this testimony in
24 strong support of the request by Tetra Tech, on behalf of
25 Auwahi Energy for acceptance of the final environmental

1 impact statement for the Auwahi Wind Farm.

2 Our Maui members have been hit hard by the
3 economic recession. We have many members who have been
4 without work for two years or more. The Auwahi Wind Farm
5 will create much needed jobs and provide some hope for our
6 membership. The Auwahi Wind Farm will produce 21 megawatts
7 of electricity, which Maui County needs as we try to move
8 away from dependence to oil. Thank you.

9 CHAIR HIRANAGA: Questions, Commissioners? Seeing
10 none, thank you. Next testifier, Dale Bonar.

11 MR. BONAR: Hello, Chair Hiranaga, Members of the
12 Council. I'm Dale Bonar. I'm the Executive Director of the
13 Hawaiian Islands Land Trust. We used to be the Maui Coastal
14 Land Trust. We are now statewide. We hold the perpetual
15 conservation easement over the entire ahupua'a of Auwahi.
16 That easement, our responsibility is making sure that that
17 easement is always adhered to, that the current and all
18 future owners of the property adhere to the restrictions and
19 permissions in that easement.

20 Easements are put on property for a wide variety
21 of reasons. Sometimes habitat, sometimes cultural sites, a
22 whole range of things. This particular easement was put on
23 as an agricultural easement, to protect these lands for
24 agricultural use in perpetuity. We are painfully aware that
25 farms aren't much good without farmers. And across the

1 nation, most farmers, ranchers, other agricultural emphasis
2 are having major challenges in trying to maintain an
3 effective economy for themselves through strict planting of
4 crops, growing of cattle, whatever it is.

5 And diversification, as in so many businesses,
6 it's critical to their survival. The -- when the Erdmans
7 came to us, wished to put an easement on their property
8 which removes virtually all residential development on the
9 property, they gave up over 600 development rights, just
10 with the current agricultural zoning allowances there.

11 And, of course, it could have been much more if
12 someone was to want to develop that land further. Hawaii is
13 unique among much of the nation in that our agricultural
14 lands, one of the -- by statute approved uses of
15 agricultural lands is, or at least nonprime agricultural
16 lands is for alternative energy production. As a
17 conservation organization, we are painfully aware of the
18 susceptibility we have out here in the middle of the
19 Pacific.

20 Sustainability, food, fuel is just critical to all
21 of us. So, this was a major review for the Land Trust when
22 we looked at this thing there. We're the first land trust
23 in the nation to prepare an easement such as this. There's
24 no other land trust that's allowed major alternative energy
25 development on the properties. In much of the nation, it's

1 a major challenge because gas lines are being run across
2 properties. Protected areas are having major transmission
3 lines across them because of the ability of energy companies
4 in many areas to use eminent domain to get their access to
5 them.

6 We reviewed this very carefully. We met with the
7 Erdmans. We looked at the potential for the project and
8 decided that this was an acceptable use for these kinds of
9 agricultural lands. We had them work with one of the best
10 attorneys in the nation to make sure it was as clean as
11 possible. Because we are setting this standard for the rest
12 of the nation here in this easement that we're doing, so we
13 approached this very carefully. I think that --

14 COMMISSION SECRETARY: Three minutes.

15 MR. BONAR: I believe that the ability to maintain
16 Ulupalakua Ranch for agricultural purposes for perpetuity,
17 whatever that is in our sociopolitical economic situation
18 here, is critical. And so thus, we accepted the
19 conservation easement on the property approximately 5,400
20 acres of the Auwahi Preserve. Thank you.

21 CHAIR HIRANAGA: Questions for the testifier?
22 Commissioner Mardfin.

23 COMMISSIONER MARDFIN: You've used two terms.
24 Conservation easement and agricultural easement.

25 MR. BONAR: One in the same.

1 COMMISSIONER MARDFIN: It's the same thing?

2 MR. BONAR: Easements can be for a whole variety
3 of things. Agriculture is one of them.

4 COMMISSIONER MARDFIN: And the alternative energy
5 generation is another in your view?

6 MR. BONAR: Alternative energy generation is an
7 approved agricultural use of nonprime agricultural lands in
8 the Hawaii by statute.

9 COMMISSIONER MARDFIN: Thank you.

10 CHAIR HIRANAGA: Any other questions? Seeing
11 none, thank you. Next testifier is Dick Mayer.

12 MR. MAYER: Thank you, Commission. And I want to
13 thank you for including the letter that I wrote at the last
14 meeting in your recommendations for response by the
15 applicant. In many ways, this is a model EIS. I've been
16 reviewing EIS's for the University for 25 years, and they've
17 done an excellent job. But there are still a number of
18 questions that have yet to be answered.

19 And I would urge you to ask that these
20 deficiencies be corrected before you finally go ahead and
21 approve it. Let me go through some of them, and I gave you
22 testimony that I think was handed out. And I'm not going to
23 go through all of them. There's too many, but I want to hit
24 on highlights. The question of traffic through Kahului and
25 south Maui. They mentioned the number of trips, but never

1 mentioned the time it's going to take and delays in traffic.
2 And there are going to be considerable times that they will
3 be doing -- I think that needs to be made very clear, so we
4 know the delays that are going to be taking place.

5 They talk about changing the signs. Number 4
6 talks about removing signs in certain locations, but makes
7 no mention about when they will be replaced. Is it after
8 each trip, at the end of the whole project or whatever? And
9 that needs to be put in. That's a very important thing.
10 That's a safety issue if traffic signs are not in place
11 along that route.

12 Time of operation, this concerns me, in south Maui
13 and through Kahului. They talk about going from 10 p.m. to
14 10 a.m. and weekends to avoid rush hour. My belief is that
15 6 a.m. to 10 a.m. is the rush hour, and that's when they're
16 saying they're going to run their routes. So, I would urge
17 you please to mitigate the traffic impact by not allowing
18 them to go from 6 a.m. to 10 p.m., but perhaps going from,
19 let's say 6:30 in the evening until 6 a.m. to avoid traffic.
20 Weekends, particularly in the Wailea-Makena area, is not an
21 off period. That's when the tourists are traveling and
22 workers are going to their jobs.

23 One of my major concerns is the major change that
24 Leilani mentioned of now using the Kula route. And it's not
25 an insignificant change. They had no meetings with the

1 upcountry community, didn't tell anybody. There are
2 probably two or three people who know about that in all of
3 upcountry, yet they're now saying that 67 to 75 percent of
4 all the traffic will go through the upcountry area.

5 And in particular, the cement trucks, the dump
6 trucks and the semi -- semi trucks will be going through
7 that area. And that's very heavy traffic, and particularly,
8 on that road from Keokea to Ulupalakua, which is very
9 winding, substandard and extremely dangerous, used by school
10 buses, by walkers, bicyclists, et cetera. And there's no
11 discussion at all acting as if that is just an open highway
12 to travel.

13 That route will also pass five different schools,
14 Carden, Kekaulike, Kamehameha, Kula School and Haleakala
15 School. No mention of the traffic from school, especially
16 when they're going through at rush hour time. That has to
17 be ameliorated somehow or other in their document. The
18 disposal of dirt and the aggregate of the thing, that is
19 going to be going by dump trucks through Kula probably as
20 they're saying. And again, no talk about the traffic on
21 that road.

22 It's an extraordinarily dangerous road as it is
23 right now for regular passenger cars, let alone dump trucks
24 and the large numbers of cement trucks, 40 per day for eight
25 days. And no indication of safety precautions like there

1 are for the super loads down through Wailea.

2 COMMISSION SECRETARY: Three minutes.

3 MR. MAYER: Let me just finish up one or two
4 things. The impact on rate payers that was mentioned in
5 questions earlier, this project is listed at \$140 million,
6 but they're getting 65 percent of that back in tax credit.
7 So, the net cost is \$49 million investment. They're
8 expecting returns of 16 million a year in annual revenue.
9 That's according to the document. That's a very nice rate
10 of return. I think they can do more for the community than
11 just a few things that they mentioned in Appendix M of their
12 environmental assessment. I'm urging you to --

13 CHAIR HIRANAGA: We have your testimony.

14 MR. MAYER: The promises that were made today --
15 let me just finish one sentence. The promises that were
16 made today, I hope they are put in writing and made a part
17 of the document rather than just statements to the group
18 today.

19 CHAIR HIRANAGA: Questions for the testifier?
20 Commissioner Shibuya.

21 COMMISSIONER SHIBUYA: Dick, without the
22 dissertation, 30 seconds, do you have another point?

23 MR. MAYER: The map does not mention the Hawaiian
24 Homelands next to their project, and I'll stop there. And
25 the one other thing is the word would. All through the

1 document, they use this would be an effect. I think they
2 should have the word shall in there, and I think you should
3 go, and I can give you the references where those are
4 located.

5 But those statements should be shall, they shall
6 do these things as mitigations, not these would be nice type
7 of statements.

8 CHAIR HIRANAGA: Commissioner Mardfin.

9 COMMISSIONER MARDFIN: I have two things. Let me
10 start with one of the things. You're primarily talking --
11 today just in your testimony now, you're primarily talking
12 about traffic disposal of dirt, et cetera. The Director has
13 just told us that those -- right now we're doing an EIS and
14 that conditioning on the way they do transport and stuff
15 could well be done at the -- when we come to approve the
16 project.

17 There seems -- do you think there's sufficient
18 information in the document itself to understand the impacts
19 of this project even if you don't know particular details
20 about how they're going to use the roads?

21 MR. MAYER: No, I don't. I think that's the flaw
22 that I was trying to point out, if I can summarize. They've
23 indicated various problems, but there are several items they
24 have not mentioned at all as to how they're going to
25 mitigate the problems. First of all, they have not located

1 where the water source is. They've mentioned four or five
2 different ones. They mentioned the aggregate waste. They
3 don't mention where it's going to go, so how can we know
4 it's going to be mitigated?

5 We talk about the truck routes. It could be down
6 below. It could be up above. The big one that I think as a
7 resident of upcountry is they've made no mention of the
8 traffic going through that route upcountry. It's a legal
9 highway, but the road from Keokea particularly to Ulupalakua
10 is extremely narrow and dangerous. School buses go there in
11 the morning. No mention of any of the issues out there.
12 So, I think in the EIS, what you need to do is show the
13 impacts and show how to mitigate.

14 And they have not yet shown how to mitigate many
15 of the impacts they're showing. And that's something I
16 think this body today has to review. Now, down the road,
17 what you'll be doing when you make conditions is in making
18 sure those mitigations are actually carried out, to put the
19 conditions, they have to do this, they have to do that. But
20 at least they should be indicated in the EIS. That's what
21 this document is all about.

22 CHAIR HIRANAGA: Commissioner Mardfin.

23 COMMISSIONER MARDFIN: My second question is in
24 the final EIS, we -- let me step back. In the preliminary
25 EIS, the Commission asked a lot of questions. In

1 particular, we asked that your letter be fully addressed, a
2 March 22nd letter. In the final EIS, they have a different
3 date. They have an April 6th letter I think it was from you
4 that they answered.

5 Is there any significant difference between the
6 two, and do you think that the questions have been fully
7 answered?

8 MR. MAYER: Two things. When I spoke to you on
9 the 22nd, I gave a summary just as I did now because I only
10 have the three minutes, so I summarized it. The one on
11 April 6th is the complete list of questions that I had, and
12 they went ahead and made an attempt to answer it. But in
13 many of those questions that I don't believe -- because many
14 of the items are the same on the 22nd of March, were the
15 same questions. They did not answer them completely to my
16 satisfaction.

17 I don't think even from a Planning Commission's
18 point of view have those questions been answered. We don't
19 know the water source. We don't know where the dirt is
20 going. We don't know for sure the truckloads. We don't
21 know how long it's going to take. For example, they talk
22 about the lighting requirements on the towers. They're
23 going to follow FAA requirements. By now I think they
24 should have been able to say this is what the FAA is going
25 to require on the towers, so we know if the birds were going

1 to be impacted.

2 So, there are many items, which I have asked and
3 which others have asked as well that have not yet been
4 determined. I am 100 percent in favor of this project. I
5 want it to go ahead. I want wind power. I've been urging
6 them for years. And I like the location generally, but I
7 want to make sure that it's done right with the least
8 impact, negative impacts to our community.

9 COMMISSIONER MARDFIN: Thank you.

10 CHAIR HIRANAGA: Any other questions for the
11 testifier? Seeing none, thank you.

12 MR. MAYER: Thank you.

13 CHAIR HIRANAGA: Next testifier is Sumner Erdman.

14 MR. ERDMAN: I'm Sumner Erdman, President of
15 Ulupalakua Ranch. And Mr. Mayer, I'm going to answer one of
16 your questions real quick. As a rancher knowing that soil
17 takes 1,000 years to build, I'm not going to let them haul
18 it off the land. I would rather have it on the land. And I
19 do apologize earlier for actually getting out of order. I
20 sit on the State Water Commission, so I'm well aware, and I
21 made them well aware that the water is actually owned by the
22 people of the State of Hawaii, one; and two, because I do
23 sit on the State Water Commission, all proper State Water
24 Commission laws will be followed in applying for the water.

25 And they have hired somebody well to -- a good

1 person to do the well. On the earlier things on the well,
2 because the water study was only recently done, the numbers
3 only recently came up, and that's why it's only recently
4 been done. But just to prove the commitment, I did call
5 Todd Gray from the Department of Hawaiian Homelands today to
6 start discussions on how to get that water.

7 How much water comes is going to -- there are
8 going to be discussions on how that is handled with DHHL,
9 because the water will go actually to DHHL. They will be
10 the ones to figure out how to put it out to the people that
11 live there. Primarily because otherwise you run into PUC
12 conditions, which would mean the people of Kahikinui would
13 actually have to pay full rates for that water instead of
14 being able to get the water at a more generous rate, shall
15 we say.

16 So, I hope that -- your question on the
17 underground caves on the water. There are a couple of
18 places in the Auwahi area, and let's remember that Auwahi is
19 part of the Kahikinui general area. There are a couple of
20 places within Auwahi that there are small amounts of water
21 in the cave. There's about two of them that I've known
22 about. But the water amounts are relatively small. This
23 well will be drilled up higher hoping to get to a higher
24 level. The main cave that people hear about in the
25 Kahikinui area that has water running through it is actually

1 further over in Kahikinui. And it is still there from my
2 understanding.

3 I have not personally been into it. It's my
4 understanding in talking to Mo Moler, who I also talked to
5 today, that water does still flow through that cave. One of
6 the things I would like us to focus on is they are -- this
7 well was something making sure the one thing you never want
8 to do, and we have all have heard it in the State of Hawaii,
9 is make a promise that you can't commit to. That's the
10 reason this information is coming out now, because the water
11 study did have to be done.

12 I had to know that there was a realistic chance to
13 drill a well, that made realistic sense to try and drill a
14 well, to try and solve one of the major issues of the people
15 of Kahikinui and Ulupalakua Ranch as well, which is a lack
16 of water on the back side.

17 COMMISSION SECRETARY: Three minutes.

18 MR. ERDMAN: And that's why this took some time.

19 And I would like to say, the one thing, my last closing
20 thing is we talked about community benefits. We're not --
21 we don't go to the oil companies that sell the oil to MECO
22 and ask for community benefit. And I think we ought to take
23 -- when we're talking about in community benefits is the
24 impact of these particular things. It's not -- the
25 community benefits should go to the people most impacted,

1 and I do believe that's the people of Kahikinui in this case
2 in a visual thing. Any questions?

3 CHAIR HIRANAGA: Questions for the testifier?
4 Commissioner Shibuya.

5 COMMISSIONER SHIBUYA: Thank you very much,
6 Sumner, for serving and being a good patron and serving on
7 the State Board of Water. Also you're combining the
8 cultural aspects, cultural requirements and protecting the
9 'aina as well as trying to sustain us energywise. I know
10 you and I were in the same energy alliance group, and so,
11 thank you very much for your services there, too. So thank
12 you.

13 MR. ERDMAN: Thank you.

14 CHAIR HIRANAGA: Any other questions for the
15 testifier? Commissioner Mardfin.

16 COMMISSIONER MARDFIN: This is actually probably
17 not for you, but I want to ask just in case I'm wrong about
18 that. You're basically leasing the land to Auwahi or to
19 Sempra. They're the ones that do the negotiations with MECO
20 about the amount of rate that the cost of energy that
21 they're going to receive, or are you involved in that
22 negotiation?

23 MR. ERDMAN: I'm not involved in that at all.
24 That is between Auwahi Wind Energy and MECO and is part of
25 the Public Utilities Commission laws.

1 COMMISSIONER MARDFIN: Second thing. I know that
2 you're planning to send the transmission line over to a
3 substation. Is there going to be a back line to the wind
4 farm itself?

5 MR. ERDMAN: That part you would have to ask them.
6 I'm not --

7 COMMISSIONER MARDFIN: Okay.

8 MR. ERDMAN: I know how to ranch and manage land.
9 Electricity scares me.

10 CHAIR HIRANAGA: Any other questions for the
11 testifier? Seeing none, thank you. Anyone else wishes to
12 provide testimony at this time, please come forward. Seeing
13 none, we'll close public testimony at this time.

14 MR. ERDMAN: I think there's one more.

15 DR. MEDEIROS: I'm Dr. Art Medeiros, and I work
16 with the Erdman family doing the Auwahi Reforestation
17 efforts up there. And Warren correctly pointed out that, I
18 think, in my opinion, the ranch is trying to do a good job
19 culturally and for water resources and for a number of
20 things, but they're also doing the right thing for the
21 environment.

22 I started working with Pardee about 30 years ago
23 voluntarily completely. We haven't exchanged a dollar
24 between us. And we've run trips every three weeks up there.
25 Some of you may have volunteered with our project. We're

1 now planting, this next trip in two weeks, we'll plant
2 100,000 plants on Ulupalakua lands all voluntarily,
3 including many endangered species.

4 I would say among all the private land owners in
5 the State, the Erdman family is probably the leader. I just
6 presented the results of the Ulupalakua, what we do at
7 Ulupalakua to the Smithsonian Conference. And they were
8 just saying, wow, we wish we had a dozen of these in the
9 nation to point to. So, I will just say that as far as the
10 preservation of nature and preservation of endangered
11 species, some of them are only on Ulupalakua Ranch land, the
12 Erdmans have been leaders throughout the State and the
13 nation in this. So, that's my testimony. I would be happy
14 to accept any questions.

15 CHAIR HIRANAGA: Questions for the testifier?
16 Commissioner Shibuya.

17 COMMISSIONER SHIBUYA: I want to thank you, Art,
18 for your tremendous support and your vision in terms of
19 expanding the environment of the natural trees and plants.
20 And then in so doing, we're now hopefully trying to get some
21 of these endangered species, native species off the
22 endangered list. We've got to make kaukau for them, make
23 them food. What better way to do it in a simpler way is to
24 restore what we broke a long time ago.

25 MR. MEDEIROS: Yeah.

1 COMMISSIONER SHIBUYA: Thank you, Art.

2 MR. MEDEIROS: You know, I got an award a while
3 back for being an environmental leader. And I said, hey,
4 look, I plead guilty to having a few good ideas. But
5 without a land owner that would have let me come on and the
6 public, that's all volunteers kind of together. It takes
7 all three of those together. I'm kind of the egghead in it
8 all. But without a good land owner and without the public,
9 none of this would have happened. But together, we did the
10 Maui No Ka Oi kind of thing. I don't mean to make a trite
11 thing, but that's really true. Thank you.

12 COMMISSIONER SHIBUYA: Mahalo.

13 CHAIR HIRANAGA: Any other questions for the
14 testifier? Seeing none, thank you.

15 MR. MEDEIROS: Aloha.

16 CHAIR HIRANAGA: Anyone else wishes to provide
17 testimony at this time? Seeing none, we'll close the public
18 testimony. Open the floor up to questions from the
19 Commissioners for staff or the applicant.

20 Why don't we take a recess, and reconvene at 4:00.

21 (Recess taken 3:45 p.m. to 4:00 p.m.)

22 CHAIR HIRANAGA: At this time, I would like to
23 open the floor to questions from the Commissioners.
24 Commissioner Wakida.

25 COMMISSIONER WAKIDA: I would first like to

1 address my first question to Leilani about clearing up this
2 Section 106. What I'm interested in are the triggers for
3 Section 106 review.

4 MS. PULMANO: Thank you, Commissioner Wakida. The
5 Section 106, let me just maybe talk about it on a very high
6 level. The Section 106 is to protect historic properties.
7 And what triggers a Section 106 on a big scale on the top
8 level is any projects that are actually federal projects.
9 So, federal projects meaning it's on federal land or that
10 you have federal funding being part of your project.

11 And to a smaller extent, there's a little gray
12 area on the issuance of a federal permit. And we are
13 getting a federal permit, but to clear up testimony earlier
14 today, the project is not getting any federal funding. The
15 battery RFP was not awarded to Sempra, so they're not
16 getting any federal funding. Now, in this gray area of a
17 federal permit, we are getting an incidental take permit,
18 which is needed from approval from U.S. Fish and Wild Life.

19 And as part of that permitting process, we need
20 what's called a habitat conservation plan. And as part of
21 the habitat conservation plan, we need a draft or an
22 environmental impact statement by NEPA. And in that
23 process, sometimes it will require a Section 106 review.
24 The federal agency though has the jurisdiction, basically
25 the kuleana to say what triggers a Section 106. We can't

1 unfortunately in this process. The SMA and the CUP at this
2 process, this body is not -- it's not under your
3 jurisdiction to trigger a 106 review. It's the federal
4 agency that actually says it's your -- you do have to do
5 this.

6 But just for your information, the wind farms,
7 they do have to do conservation, habitat conservation
8 permits, and there hasn't been any trigger for a Section 106
9 review in the past wind farms. So, we are going through
10 that process. The U. S. Fish and Wild Life, we're going
11 through this habitat conservation process, and they are
12 consulting with SHPD if a Section 106 is required or not.

13 COMMISSIONER WAKIDA: Thank you.

14 CHAIR HIRANAGA: I believe Commissioner Lay had a
15 question before we recessed.

16 COMMISSIONER LAY: Commissioner Wakida took care
17 of that. Thank you very much.

18 CHAIR HIRANAGA: Commissioner Mardfin.

19 COMMISSIONER MARDFIN: I would contend that you
20 are getting a federal tax expense. It's a tax expense when
21 you get a tax deduction, and that is federal monies. If
22 that weren't paid out, the federal government would have
23 more revenues. So, it's called a tax expenditure, and it's
24 anytime you get subsidies, it's a tax expenditure. So, I
25 would contend you do have it. Now, maybe the law defines it

1 differently, but in economic terms, you're getting an
2 expenditure from the federal government for this.

3 CHAIR HIRANAGA: Do you have a question,
4 Commissioner Mardfin?

5 COMMISSIONER MARDFIN: Yes, I do. Regarding -- we
6 asked a whole lot of questions the last time you were before
7 us. And on some of the answers were particularly
8 nonresponsive as far as I was concerned. But let me focus
9 on the one that I had asked, namely comment LA05-21. And
10 maybe I just didn't find it. I said, "Show on a map some of
11 the surrounding significant archeological sites, so that it
12 can be determined that these known sites are not impacted by
13 the project."

14 And you said, "Figure 6-11 and 12-29 of the AIS
15 depict the location." I looked and looked and looked and
16 couldn't find it. Maybe I missed it.

17 MS. PULMANO: We can provide that with that
18 references.

19 COMMISSIONER MARDFIN: I don't know where in our
20 packets it is. It's a long packet, so maybe I missed it.

21 MR. CLEGHORN: My name is Paul Cleghorn. I'm with
22 Pacific Legacy. I'm trying to figure out how to answer the
23 question. Bear with me.

24 MS. PULMANO: If you can give us a moment.

25 MR. CLEGHORN: Sorry. Again, my name is Paul

1 Cleghorn with Pacific Legacy. The sites that we were
2 referencing there was in Figure 6 in the appendix, 6-11 and
3 whatever, these are the sites that we recorded in 2007.

4 We did 100 percent pedestrian survey of 1,450
5 acres of the area surrounding the current APE, which was 232
6 acres. And so, those are the sites we felt showed the
7 context of the sites that were going to be impacted by the
8 project.

9 COMMISSIONER MARDFIN: I hear you, but I still
10 haven't seen Figure 6-11 or 12-29. I did find an article by
11 Patrick Kirch on Paleodemography in Kahikinui, which I think
12 may have answered my question, but that's not available to
13 the other commissioners.

14 MR. CLEGHORN: That is correct. I did not bring
15 in the Kahikinui data. I was sticking with the Auwahi data
16 for this, and I was using the southern portion of the Auwahi
17 ahupua'a as the context to interpret the sites that we were
18 looking at with the project. And I'm afraid I don't know
19 the figure reference in the appendix. I have the original
20 AIS here, which I would be happy to hand to you if that
21 would help.

22 COMMISSIONER MARDFIN: Can you tell me if in that
23 area, those black things were the archeological testing
24 areas?

25 MR. CLEGHORN: No, those were recorded

1 archeological sites.

2 COMMISSIONER MARDFIN: And when this project is
3 built, if this project is built, when this project is built,
4 how many of those archeological sites will be impacted?

5 MR. CLEGHORN: What we did is in the 282 acre
6 project area, we recorded 170 sites comprised of 995
7 features. I did some math, and I'm not a mathematical
8 wizard by any means, so please bear with me. This
9 calculates to 3.5 features per acres. If you multiply that
10 out by the 1,450 acres, it comes out to the entire 1,450
11 acres of 5,075 features of which the 995 features will be
12 impacted. Those 995 features work out to about a 19.6
13 percent sample of the postulated total number of features
14 within that 1,450 acres.

15 COMMISSIONER MARDFIN: But most of those -- I
16 guess when I say impact, I'm thinking about where the towers
17 will be, where the platforms will be.

18 MR. CLEGHORN: Bear with me one more second on
19 that. On our survey for the access roads, let's just talk
20 about the access roads connecting up with the farm. Our
21 survey, we looked at 20 meters on either side of the center
22 line, so a 40 meter wide swath. Any site boundary that
23 crossed that line, we considered within the APE. So, our
24 numbers are inflated a bit.

25 Now, the actual roadway is going to be about ten

1 meters wide. So, all the 40 meters will not be impacted,
2 and actually, we've worked with the engineers to -- some of
3 the sites appear to be more sensitive than others, and
4 they're able to move the roadway within that 40 meter wide
5 corridor to avoid these sites.

6 Our premise all along is to avoid as many of the
7 sites as possible. And the engineers have been -- I must
8 throw a pitch in here for the engineers. We've been working
9 with them since 2007, and they get real tired of us. "We
10 just found this complex of sites, and it's really, really
11 important. Can you move the whatever?" And they've done
12 it. And I'm not used to working with engineers that do
13 that. It's usually, "Well, you have a problem, don't you,
14 Cleghorn?"

15 So, it's been gratifying, but yes, about a 19
16 percent at a maximum will be impacted within the postulated
17 number of features, but I think that's an exaggerated list.
18 Because, as I said, the site boundaries, if it just goes
19 into the AP at all, they would all be counted.

20 COMMISSIONER MARDFIN: And are there any really
21 significant impacts -- I mean you're certainly not going to
22 put it on a heiau or anything silly like that. But is there
23 anything really significant you think that will have to be
24 impacted?

25 MR. CLEGHORN: We've done our best. We've

1 identified five pretty for sure heiau on the property,
2 that's classic Maui notched heiau. We've recorded five of
3 those. We've recorded five confirmed burial sites. All
4 those will be avoided.

5 We've also identified about 41 other features that
6 are possible burial sites. We're avoiding those as well.
7 We're working with the Burial Council right now revising our
8 burial treatment plan to take care of some of their most
9 recent comments. Is anything truly significant going to be
10 hit? And Pat Kirch, thank you for bringing it up, he's a
11 consultant on the project. His comment, and I love Pat,
12 I've known him for 30 years. He goes through the whole
13 area. And I said, So, Pat, what did you think after two
14 weeks? He goes, I don't think there's any show stoppers
15 here.

16 COMMISSIONER MARDFIN: That's good.

17 MR. CLEGHORN: I took that as good as well.
18 Because Pat, he speaks very candidly with me. If he didn't
19 like something, he said, "Paul, don't do this." And so,
20 will we impact some sites that are pretty interesting? Yes.
21 But that's where the data recovery comes from. That's our
22 next step, and we've put together recommendations in the AIS
23 for the data recovery plan where we're not going to test all
24 995 features. That's ridiculous. We would have a small
25 hole in each one. But we're going to be more selective on

1 where we do our excavations. We're going to do broader
2 excavations, and some will be excavated at higher sites. So
3 we get more of a knowledge of how the household actually
4 worked, what was there.

5 And we have poised them all to address a number of
6 pretty very important research questions that would help
7 learn more about Maui.

8 COMMISSIONER MARDFIN: Are you -- may I? Do you
9 anticipate recovering any charcoal or other carbon based
10 products to do carbon 14 testing?

11 MR. CLEGHORN: Oh, yes sir. I can't remember the
12 exact number. I think we've got about 16 or 18 radio carbon
13 dates from the testing. We want to do another 50.

14 COMMISSIONER MARDFIN: Great.

15 MR. HOROVITZ: Because Pat Kirch, that is his
16 comment. He said, "It's interesting, because it looks like
17 Auwahi was probably settled -- peak of settlement was before
18 other areas of Kahikinui." And I'm going why, it so bloody
19 windy. It's rocky. He says, "It's probably because the
20 land was richer here." And so we want to test that. He has
21 a corpus of about 100-odd dates from the rest of Kahikinui.
22 So, we want to build our sample up higher so compare we can
23 compare better, and Pat will continue to be a consultant on
24 the project to keep my feet to the fire.

25 COMMISSIONER MARDFIN: That's very good news.

1 Thank you very much, sir.

2 MR. CLEGHORN: You're welcome.

3 CHAIR HIRANAGA: Any other questions,
4 Commissioners? Commissioner Shibuya.

5 COMMISSIONER SHIBUYA: I just want to start off
6 before I ask my questions with an observation. And it deals
7 with we had planned 15 of these 1.5 meg type wind turbine
8 generators. And all of the sudden now, we hear eight wind
9 turbine generators. And we're dealing with visual impact.
10 These will be much larger than the 1.5, even though they're
11 smaller and more numerous. But now these huge 3 meg wind
12 turbines I tell you are going to be in your face. They will
13 be taller, larger and very visible.

14 So that's my comment. But anyway, the questions
15 that I have deal with technical aspects. One is stray
16 voltage. Hopefully, we can address some of these things.
17 Stray voltage is as farmers and usually ranchers, because
18 they have cattle underneath, the cattle will stay away from
19 it. It's simple as that, because it will get stray voltages
20 in the cattle, and the cattle just runs away. They can't
21 tell you you're getting shocked, but that's what happens.

22 Fire potential. The greater the turbine, the
23 greater the potential for a fire. And if we need to
24 mitigate some of these things, it's problematic. The other
25 aspect is lighting. They're taller. They're closer to

1 wherever the source is. You're probably going to have
2 temperature sensors within the turbine itself, so you can
3 address some of the temperature changes and address possibly
4 shutting down some of these turbines when they get off
5 balance. One of the items here was aeroelastic effects of
6 larger wind blade tip deflection.

7 The larger the turbine, the longer the blade tips.
8 The longer the blade tips, the more elasticity or
9 flexibility. The greater the flexibility, the greater the
10 ability or the potential for it breaking. The 1.5 has a 20
11 percent failure rate. That's an average failure rate, and
12 this is from the "NASA Tech Briefs" October 2010. These are
13 publications from the Sandia National Labs estimate. I'm
14 just highlighting some of the things.

15 You make bigger, yeah, for the sense of visual
16 impact, but actually, you're creating more impact. You're
17 creating more technical problems, so I'm wanting to balance
18 some of these things in a sense that perhaps maybe we need
19 to go 15 smaller 1.5 meg type turbines. The other one is
20 EMF interference. The greater the three meg generating
21 capacity, the greater your EMF.

22 CHAIR HIRANAGA: Commissioner Shibuya, did you
23 want to pose a question and receive an answer one at a time?
24 Or I'm not sure what you're trying to accomplish.

25 COMMISSIONER SHIBUYA: No, I'm just going to ask

1 them how they intend to address some of these phenomena.

2 CHAIR HIRANAGA: So, why don't you ask them a
3 question.

4 COMMISSIONER SHIBUYA: Okay. I've posed several
5 of these technical problems. How can you address them or
6 will you address them? How will you address them?

7 MS. PULMANO: Commissioner Shibuya, just to give
8 you a context of why the decision from the 1.5 to the 3.0,
9 it was not only based on visual, but also archeological and
10 biological resources and impacts to the ground. Obviously,
11 the more ground disturbance you have, you also have those
12 disturbances to the resources. And as you just heard Paul
13 talk about, there are a lot of archeological resources on
14 the site. And so, that was one of our major decisions on
15 why we thought the eight turbines would have less impacts.

16 In terms of the technical -- the technical
17 turbines, the difference between the 1.5 turbine and the 3.0
18 turbine in terms of height is about 30 feet. It's not -- I
19 guess you could -- it's your subjective. It could be
20 considered significant, but 30 feet in the height of a
21 400-foot tower may not be that significant, the difference
22 between those two.

23 We do have a fire mitigation plan that's part of
24 the project that does help to mitigate wild fires, potential
25 lightning strikes. There is a discussion in our final EIS

1 about the EMF, so we have addressed some of those -- some of
2 what you have been talking about.

3 CHAIR HIRANAGA: Commissioner Wakida.

4 COMMISSIONER WAKIDA: I guess kind of along these
5 lines, there was an addition to Volume 1 on Page 3-242. And
6 it says that the Auwahi has consulted Consurge to identify
7 potential impact of wind turbines on microwave systems. And
8 it says that systems, microwave bands could be affected, and
9 some of these are the backbone of the country and so on.
10 And then it ends up and says that the wind farm site will
11 avoid any impacts identified by Consurge. That's all it
12 says. It doesn't say how it's going to avoid those impacts
13 or anything further unless -- unless I've not read this
14 through. But can you elaborate on that?

15 MS. PULMANO: Sure. Just give me one second. I
16 need to reference the section you're looking at if you
17 wouldn't mind calling out that page.

18 COMMISSIONER WAKIDA: Yeah. It's Volume 1,
19 paragraph 3-242. It's a new underlined paragraph that was
20 added.

21 MS. PULMANO: I'm sorry, this is a little bit more
22 technical for me. I'm going to let the engineer explain
23 this one.

24 COMMISSIONER WAKIDA: Thank you. And please
25 explain it in simple terms.

1 MR. DMOHOWSKI: I'll try my best. Mitch
2 Dmohowski. I'm the development director for the project and
3 also a former engineer. As far as the microwave studies,
4 the communication studies, basically what Consurge does is
5 there's a database effectively of every communications tower
6 that's out there. And basically, they know what the
7 frequency that they're broadcasting at and the beams that
8 they're broadcasting at.

9 Now, what we did here in particular is we
10 identified all of those, those communication towers that
11 potentially could basically transmit through the area. Now,
12 a lot of these communications towers or microwave, they're
13 sort of beams and they're sort of directional, and the
14 simplest way to avoid any interference with that is that
15 beam does not cross the location of the turbines and the
16 blades, and it does not impact it. And that's basically
17 what this is trying to say in probably less than elegant
18 language, is that the locations of the turbines versus the
19 locations of the com towers, the broadcast frequencies and
20 broadcast beams are not going to be affected by the towers.

21 COMMISSIONER WAKIDA: Thank you.

22 CHAIR HIRANAGA: Commissioner Mardfin.

23 COMMISSIONER MARDFIN: Leilani, on Page 2-5, there
24 was some discussion that Commissioner Shibuya had with you
25 that puzzled me. Because I think I may be reading the table

1 wrong. This is Table 2-1 where you're looking at the range
2 of dimensions for the three generators that were under
3 consideration. I was looking at it and seeing that there
4 was essentially no difference. But then I think you just
5 said it was 30 feet higher?

6 MS. PULMANO: Yes. This table is in meters. So,
7 if you look at Roman Number 3, that says height to top of
8 blade. 121 for the GE and 130 for the Siemens. That's
9 about nine meters.

10 COMMISSIONER MARDFIN: Right, okay. But I
11 thought, was GE under consideration?

12 MS. PULMANO: Yeah, that's the 1.5 turbines that
13 Commissioner Shibuya was --

14 COMMISSIONER MARDFIN: Was that what you were
15 originally planning?

16 MS. PULMANO: It was either of two. These were
17 the three turbines that were looked at for the draft EIS.

18 COMMISSIONER MARDFIN: So, I was looking at the SW
19 2., the Siemens 2.3 versus the Siemens 3.0, and it looks to
20 me the same.

21 MS. PULMANO: Yes, that is the same.

22 COMMISSIONER MARDFIN: And how about when the
23 blade swoops down, the height above the ground, is that 29.5
24 versus 38.75?

25 MS. PULMANO: Yes. I'm getting nods from the --

1 yes, yes.

2 COMMISSIONER MARDFIN: So, the lowest it will go
3 is 29.5 on the one you're selecting, 29 meters, so that's --

4 MS. PULMANO: 900 feet, or I mean --

5 COMMISSIONER MARDFIN: 100 feet.

6 MS. PULMANO: 100, yeah.

7 COMMISSIONER MARDFIN: Nobody is that tall. And
8 versus 38.75. That's another ten meters, which is another
9 30 feet difference.

10 MS. PULMANO: Uh-huh.

11 COMMISSIONER MARDFIN: Okay. Thank you.

12 MS. PULMANO: And just to -- can I respond to one
13 question from Commissioner Shibuya? I just got a note about
14 the Siemens 3.0, the turbines doesn't have any gear boxes,
15 and this also reduces the risk of fire.

16 CHAIR HIRANAGA: Commissioner Lay.

17 COMMISSIONER LAY: Okay. On the traffic, earlier
18 Mr. Mayer was talking about where the traffic would be
19 during the daylight hours. And there was a question on why
20 it's not going at the nighttime hours. What's the issue on
21 this?

22 MS. PULMANO: Well, frankly, we actually would
23 rather travel during the nighttime hours, nonpeak hours in
24 general. The Wailea Community Association has asked us to
25 look at traveling between 8 a.m. and 8 p.m., so we're just

1 trying to balance everybody's requests and also trying to
2 balance the different agencies' needs for us to travel
3 during nonpeak hours. We're looking at it all.

4 COMMISSIONER LAY: Okay. Same traffic issue,
5 yeah. There was some talk about using the Upper Kula Road
6 as far as getting your cement trucks there. For me, it's a
7 difficult thing, because these cement trucks, they're paying
8 their taxes to have their trucks on the road. You have guys
9 working. And it is a legal road. And for me, I don't see
10 the issue there. And I'm wondering is there an issue that
11 we should be aware of as far as them using this road?

12 MS. PULMANO: When we've talked to the cement
13 companies and they actually prefer using Kula Highway as
14 opposed to Papaka Road just because it's easier on their
15 trucks. But it will honestly depend on which cement company
16 we use. If we go with Ameron, then they would rather us
17 Kula Highway. If we use Hawaiian Cement, it's closer to
18 Kihei, and they might prefer to use Papaka Road. It depends
19 on the condition of that final grading.

20 CHAIR HIRANAGA: Commissioner Wakida.

21 COMMISSIONER WAKIDA: In Volume 1, you omitted the
22 study on the shearwater. Newell's shearwater was all
23 crossed out, said it was threatened. Why was that?

24 MS. PULMANO: I'm going to pass that on to the
25 biologist. One second.

1 MS. OLLER: I'm Alicia Oller with Tetra Tech, and
2 we did originally consider including the Newell's shearwater
3 as a covered species in our HCP. But in discussions with
4 U.S. Fish and Wild Life Service and DOFAW, and like Leilani
5 said, we've been working with them for the past year and a
6 half. They felt that there was a very -- that for that
7 species, it didn't warrant being included in the HCP as a
8 covered species. Because there was like a 99.9 percent
9 chance that one would even fly across the site.

10 They're really not confirmed to nest on Maui.
11 It's suspected, but not confirmed. And there's where
12 vocalizations have been heard is on the other side of
13 Haleakala and in that area. So, it -- it was recommended
14 and we agreed to move forward with not including it as a
15 covered species.

16 COMMISSIONER WAKIDA: Thank you. One more. Since
17 we have you up here, this morning a testifier was very
18 concerned about the 'iwa or frigatebird. Any comments?

19 MS. OLLER: We have done surveys on site for every
20 species, and the frigatebird was not observed on the site.
21 That's why it's not called out in the EIS, the HCP or any of
22 our documents, because it wasn't observed. They're known to
23 actually nest more in some of the smaller more remote
24 islands. There was actually a study done by Kathleen Bailey
25 with Haleakala National Park where she was actually down on

1 the trail and on the coastline and also documented that
2 there wasn't -- the birds tended to stay -- if they came
3 through, it was more transients and just closer to the
4 coastline.

5 So, they are not -- they're a more common species.
6 They're not considered threatened or endangered, and then it
7 was all of the avoidance and minimization measures that are
8 being incorporated into the project to protect birds were if
9 by chance one does fly through there, they will benefit from
10 those avoidance and minimization measures.

11 COMMISSIONER WAKIDA: Thank you.

12 MS. OLLER: You're welcome.

13 CHAIR HIRANAGA: Commissioner Ball.

14 COMMISSIONER BALL: The super loads, was there
15 anything, any study done from Point A, Kahului Harbor, to
16 say Makena as far as how long it takes to get from that
17 point to that point?

18 MS. PULMANO: We have Leo from Tri-Isle here, who
19 actually has lots of experience with transporting. But
20 there has been extensive studies done from a point to point
21 study. It is part of our EIS, but he can speak to more
22 about the travel time.

23 ARENSBERG: Good morning. My name is Leo
24 Arensberg, vice-president of Tri-Isle. I'm sorry, what was
25 your question, Commissioner?

1 COMMISSIONER BALL: What is the estimated travel
2 time from Point A at Kahului Harbor to let's say where
3 traffic won't be affected?

4 MR. ARENSBERG: We did a route survey, and we're
5 estimating from Kahului Harbor to the turn-off at Makena,
6 approximately 40 to 45 minutes trip time one way.

7 COMMISSIONER BALL: That a two lane -- I mean are
8 you going to have to close some intersections because you
9 won't stop, or are you going to follow the --

10 MR. ARENSBERG: We will only have to -- excuse me.
11 We will only have to steer our blades. It's called a blade
12 trailer, and we will have to brake and steer that at the
13 intersection of Wailea Ike and Wailea Alanui. Otherwise,
14 coming out of Kahului Harbor turning onto Puunene Avenue,
15 we'll just cheat over into the other lanes. Every load will
16 have two police escorts and one company escort as well.

17 CHAIR HIRANAGA: Commissioner Mardfin.

18 COMMISSIONER MARDFIN: I think this is for
19 Leilani.

20 MR. ARENSBERG: Thank you.

21 COMMISSIONER MARDFIN: I don't know if you were
22 here this morning at the beginning of our session, but there
23 was a gentleman named Peter, and I didn't get his last name,
24 who was sitting in the back who said he is your closest
25 neighbor to this place. And he said he hadn't been notified

1 at all.

2 Is there some reason that you haven't dealt with
3 him or anybody else not in Hawaiian Homelands?

4 MS. PULMANO: Actually, from my understanding,
5 Sumner and Mitch did meet with Mr. Stolle. They have talked
6 about some benefits to his property, and I'm not sure -- I'm
7 not privy of that.

8 COMMISSIONER MARDFIN: Was that today they met
9 with him, or prior to today?

10 MS. PULMANO: Prior to today.

11 COMMISSIONER MARDFIN: On a different note, would
12 you turn to, I guess it's in Volume 3, yeah, Volume 3,
13 Appendix K-1-218.

14 MS. PULMANO: K-1-218?

15 COMMISSIONER MARDFIN: Yeah.

16 MS. PULMANO: Okay.

17 COMMISSIONER MARDFIN: Okay. This is in response
18 to one of Dick Mayer's questions. It says, "The
19 socioeconomic section is very superficial, avoids
20 discussions of economic or social issues. Will electricity
21 be cheaper, more expensive?" And there's a whole bunch of
22 things in here that I think are excellent questions. That's
23 IND 13-23.

24 Your response, "Along with reducing greenhouse gas
25 emissions, primary benefits will be to provide fixed price

1 electricity." You don't say what it's going to be. I'm
2 skipping a sentence. But then it says, "The specific
3 details of the PPA, power purchase agreement, for Auwahi and
4 other wind projects in Hawaii can be found on HPUC web site
5 at," and you give a -- I mean, so you're not really
6 answering. You're just saying go look here. I went on last
7 night and tried to find it. I wasn't able to. Dick tells
8 me today he was able to.

9 But it would have been really nice if you just put
10 the answers in here. You want to tell me about the power
11 arrangement and what it's going to cost?

12 MS. PULMANO: Sure. This question, there's a lot
13 of information in this question. And I think his first and
14 foremost question is are the rates going to be cheaper for
15 MECO consumers, for us. And as Doug McLeod had spoken, what
16 the wind farm does is actually decouple, delink the price of
17 fuel to consumer prices here for MECO's fuel. And so, what
18 it does is hopefully in the long term, it will stabilize
19 prices instead of this fluctuation of oil prices. Today it
20 was like around 80. Two weeks ago, it was almost 90, and as
21 he had heard, it might be going over 150.

22 So, it doesn't -- he's right, it doesn't
23 necessarily convert right now to lower prices until we get
24 to a time where renewable energy takes over the fossil fuel.

25 COMMISSIONER MARDFIN: Will it do the other thing,

1 will it raise rates in the short term?

2 MS. PULMANO: I'm not sure. I can't speak to
3 that.

4 COMMISSIONER MARDFIN: I mean can you tell me what
5 the financial arrangement is?

6 MS. PULMANO: On the PPA?

7 COMMISSIONER MARDFIN: Yes.

8 MS. PULMANO: Mitch is here, and he can speak to
9 that. I think he has some information about that. What
10 MECO actually pays to Auwahi wind for the power?

11 COMMISSIONER MARDFIN: I did find Auwahi wind's --
12 no, I didn't find Auwahi wind. I found the other one. Yes,
13 please, that would help.

14 MR. DMOHOWSKI: Mitch Dmohowski again, director of
15 Sempra Generation. The reason why we referred Dick to that
16 question to the PUC web site is we negotiated an agreement
17 with the Hawaii -- Hawaiian Electric, Maui Electric
18 specifically. They then sent it to Hawaii Public Utilities
19 Commission and the Hawaii Consumer Advocate, and they
20 analyzed it in detail.

21 And there is a couple of thousand pages of
22 analysis on the PUC web site for this project along with
23 every other wind project and every other PPA out there where
24 we they through the analysis and determined if the price was
25 just and reasonable. As far as the specific pricing

1 arrangement for this project, it is public and as well as
2 every other project here in Hawaii.

3 The rate for our project starts at \$200 a megawatt
4 hour. When we reach a certain level of production on an
5 annual basis, it drops down to the 50 cents per megawatt
6 hour. Now the project, because of the situation we have
7 right now, it will be turned out at night for most of the
8 time, because everybody turns their lights off and doesn't
9 use power.

10 So, the idea is though as load grows on Maui, the
11 plant will be turned off less and less at night, so the
12 plant will be delivering more of this 50 cents -- I'm sorry,
13 \$50 a megawatt hour, which is five cents a kilowatt, which
14 is substantially below the rates right now. So, the idea is
15 that structure will benefit everybody involved, and
16 potentially, it can reduce the rates here on Maui. But
17 probably more, you know, more along the idea of 10, 15 years
18 out. But that's the structure, it is to benefit everybody.

19 COMMISSIONER MARDFIN: I did a search and couldn't
20 find Auwahi or Sempra in the PUC database. Maybe -- I don't
21 know why. But I did find the other one, the one on West
22 Maui. And they had three tiers of pricing. You have two
23 tiers?

24 MR. DMOHOWSKI: Yeah, we have two tiers. The
25 interesting thing is that other project, their first tier is

1 substantially higher than ours. It starts at \$250 a
2 megawatt hour, so that's 20 percent higher than ours. And
3 our starts at \$200.

4 COMMISSIONER MARDFIN: And they have an escalator
5 clause of one and a half percent for about a decade, and
6 then a half a percent?

7 MR. DMOHOWSKI: Yes, that's correct. We have a
8 similar structure.

9 COMMISSIONER MARDFIN: One and a half percent?

10 MR. DMOHOWSKI: One and a half percent. And that
11 seems to be if you look at all the other PPA's that MECO has
12 signed, that seems to be the structure they prefer. And
13 it's based on their experience oil prices are going to go up
14 more than one and a half percent per year on average.

15 In general when you ask about what this project
16 would do for electricity prices here, I can tell you right
17 with oil prices at about \$70 a barrel, it's not going to
18 bring down your oil prices. But when they go up 100, 120,
19 definitely when you hit 140, the price on this will be
20 definitely below what you're getting out of the oil power
21 plants here in Hawaii. And that's the idea.

22 COMMISSIONER MARDFIN: I don't want to bore my
23 colleagues here, my fellow Commissioners, but I would like
24 to get a precise web site from you if you get a chance
25 sometime.

1 MR. DMOHOWSKI: I thought we had given you the
2 specific link to Auwahi.

3 COMMISSIONER MARDFIN: That would be great.

4 CHAIR HIRANAGA: Commissioner Wakida.

5 COMMISSIONER WAKIDA: Yes. I have a question
6 about the visual impact. The generator tie-in line, and of
7 course, in a perfect world, it would be wonderful to have
8 the whole thing underground. But I'm interested in the part
9 that crosses the highway as it comes up. And the
10 feasibility of just putting that part underground so that I
11 mean this highway will continue to be a much traveled
12 highway, and will get even more so as the years progress.

13 And it would be a huge improvement to have that go
14 under the highway at that point and then come out of the
15 ground further up the hill.

16 MS. PULMANO: Just so that I'm clear, you're
17 asking for the underground to be these poles just close to
18 the highway or --

19 COMMISSIONER WAKIDA: Well, it would be wonderful
20 if it could be all the way from where it ties in, but I
21 don't know structurally how that works out. But yes, I
22 would like to see it go under the highway so you don't have
23 to see the lines crossing the highway. Did we get a visual
24 on what crosses the highway on Kula Highway further down?
25 Did we ever see what that looked like?

1 MS. PULMANO: That's it right there.

2 COMMISSIONER WAKIDA: That's by the wind farm,
3 correct?

4 MS. PULMANO: No. It will look pretty similar.
5 That area looks pretty similar conditions.

6 COMMISSIONER WAKIDA: Does it?

7 MS. PULMANO: Uh-huh.

8 COMMISSIONER WAKIDA: Yeah. Then I would like the
9 feasibility of putting it underground both of those places.

10 MS. PULMANO: And I just want to make --

11 COMMISSIONER WAKIDA: But I'm not suggesting the
12 whole entire line, just what crosses the highway.

13 MS. PULMANO: Okay. And do you have a specific
14 distance from the highway that you want both, 50 feet, 25
15 feet?

16 COMMISSIONER WAKIDA: No. I would need some help
17 on that I think. As much as possible.

18 MS. PULMANO: In general in that the location next
19 to the highway.

20 COMMISSIONER WAKIDA: So that it creates a more
21 attractive corridor as one goes down the highway. That's
22 the important thing.

23 COMMISSIONER BALL: How far apart are those two
24 poles on the bottom?

25 CHAIR HIRANAGA: Commissioner Ball, did you have a

1 question?

2 COMMISSIONER BALL: No, I'm just helping her.

3 MR. DMOHOWSKI: I want to say a couple hundred
4 feet. The exact number, the spacing varies a little bit.
5 But it's usually a couple hundred feet.

6 MS. PULMANO: So, it's a couple hundred feet.

7 COMMISSIONER WAKIDA: That would work if it went
8 from the pole farthest on the right and then to the next
9 pole up. That would make me happy. So, I would like to
10 look into that.

11 CHAIR HIRANAGA: Commissioner Lay.

12 COMMISSIONER LAY: Further on the pole issue, what
13 height are we looking at far as your pole height?

14 MS. PULMANO: Sixty feet.

15 CHAIR HIRANAGA: Commissioner Ball.

16 COMMISSIONER BALL: How is the route of the
17 transmission line determined? So, you kind of go up on the
18 mountain instead of maybe following the road?

19 MS. PULMANO: The route was determined basically
20 by using Ulupalakua Ranch land. Otherwise, if you go along
21 the roadway, you cross a lot of different ownership parcels.

22 CHAIR HIRANAGA: Commissioner Shibuya.

23 COMMISSIONER SHIBUYA: Coming back to the size of
24 your wind turbine generators, what impact will it have
25 relating with the super loaded trailers now? Are they going

1 to be heavier? Are they going to be more frequent?

2 MS. PULMANO: There are seven -- each turbine
3 requires seven parts. As compared to the other type of
4 turbines, I'm not exactly sure how big or how small, but I
5 do know that it takes seven different sections for one
6 turbine, so seven super loads.

7 COMMISSIONER SHIBUYA: And the bottom section, I'm
8 assuming the inverter is in there, or will the inverter be
9 shipped separately?

10 MS. PULMANO: That's a good question. I don't
11 know what the inverter is. Do you know what that is?

12 MR. DMOHOWSKI: I assume you're actually referring
13 to the step-up transformer? That's a separate piece of
14 equipment that will -- it's pretty small. It's about the
15 size of Leilani. But as far as the components of the wind
16 turbine, the -- as Leilani said, it's seven loads, so by
17 reducing from 15 to 8 turbines, we reduced the substantial
18 number of the loads. The blades will be a little bit longer
19 as she explained, 20-plus feet.

20 But the actual -- the weight of some of the
21 components will specifically be less, because it doesn't
22 have a gear box anymore. It's a newer and better design and
23 it weighs less.

24 COMMISSIONER SHIBUYA: Okay. Thank you.

25 CHAIR HIRANAGA: Several commissioners have

1 indicated the desire to leave at 5:00. So, I'm just
2 wondering, Commissioners, do you believe your questions will
3 go beyond 5:00 or not?

4 COMMISSIONER SHIBUYA: No.

5 COMMISSIONER WAKIDA: No.

6 COMMISSIONER MARDFIN: Probably not. I'll
7 probably be finished.

8 CHAIR HIRANAGA: So, we'll continue. Commissioner
9 Sablas.

10 COMMISSIONER SABLAS: I'm really interested in the
11 archeological and cultural resources of this precontact era.
12 And I had the opportunity in the early 70's to intern at the
13 Bishop Museum, and our mission at the time was to identify
14 all precontact artifacts that were found on Maui. And it
15 was very surprising that of all the islands, Maui had the
16 least precontact artifacts at the Bishop Museum. So, my
17 question is in reading through some of the reports here,
18 there's a lot of artifacts that are found on precontact.

19 A couple of things I would like to again ask the
20 question that Commissioner Mardfin had about having an
21 inventory and have a table of that that shows the sites and
22 its relationship to the proposed platforms. I think that's
23 very important. And how you -- again, I'm kind of reading.
24 It's a lot of reading you gave us. And it's hard when I
25 have a full-time job. So, I would have to admit I'm

1 probably not as thorough on reading everything, but I'm
2 especially interested in what you're doing to mitigate these
3 cultural sites, because they're really, really important.

4 And the other question I have is really for the
5 archeologist. What happens to artifacts that they find on
6 these sites? What do they do with that? So, I'm sorry to
7 be long questions, but can somebody answer that?

8 MS. PULMANO: In terms of each feature that was
9 found, there is a -- as part of the AIS, there is an
10 appendix. And the appendix is 1,000 pages frankly. And so,
11 we included a CD as part of that. And that appendix shows
12 each site that was documented and talks about each site that
13 was documented. And then I'll have Paul talk about what
14 happens to those artifacts.

15 Did you have a followup question on that?

16 COMMISSIONER SABLAS: I guess you said the
17 appendix, but would we have, would the Commission be able to
18 view what the sites are, because there's like 15 platforms.
19 And I was kind of reading about the different sites. It's
20 reduced because instead of 15, you're down to eight. So,
21 would we be able to have a visual anyway of where these --
22 the artifacts are or where the sites are in relationship to
23 what you're proposing? I don't think the question was
24 answered for me.

25 You may have it in 1,000 pages, but that's not

1 something that will be available to us. What could be
2 available to us?

3 MR. CLEGHORN: Hi. Paul Cleghorn again from
4 Pacific Legacy. Two questions we have in front of us right
5 now. Leilani is correct, what we tried to do is we wanted
6 to have in one place the disposition of all artifacts
7 recovered or recorded, not just recovered. Because a lot of
8 the artifacts we did not collect. We noticed on the ground
9 and left them there. And also not just artifacts, but also
10 midden material, shellfish, fishbone, dog bones.

11 And in I think it's Appendix A or B is our site
12 table. And yes, it is horrendously long. That's why it's
13 in electronic format. Trying to condense that down to a
14 paper format for people to read easily would be extremely
15 difficult honestly, because there's just so much data on
16 those. What was the other question, I'm sorry?

17 MS. PULMANO: What happens to --

18 MR. CLEGHORN: The disposition of the artifacts.
19 Thank you. We have to follow State law. State law is
20 written such that all artifacts belong to the property
21 owner. So, they belong to Ulupalakua Ranch. When the
22 project is completed, they will be turned to Ulupalakua
23 Ranch. So, that's just State law that we have to follow.

24 CHAIR HIRANAGA: Commissioner Shibuya.

25 COMMISSIONER SHIBUYA: Storage. When the ship

1 delivers the components, how -- where are they going to be
2 stored and do we have the space to store them wherever
3 you're going to store them? Because what I'm wondering here
4 is that today our barges come in with fuel, and then the
5 tanker trucks race around trying to unload the barge because
6 our storage capacity on shore is limited. So, I'm wondering
7 if we have a storage limitation on near proximity of the
8 harbor.

9 MS. PULMANO: The storage requirements from
10 offloading to the harbor to store it before it gets to the
11 site is about, I think it was four or five acres, somewhere
12 around there. And we've been talking to many different land
13 owners. A&B has some storage capacity pretty close to the
14 harbor. They also have some storage capacity over at their
15 Puunene site. And further down where the turbines are being
16 stored now for Kaheawa Phase 2 at Maui Research and
17 Technology Park is another option.

18 COMMISSIONER SHIBUYA: Okay. Thank you.

19 CHAIR HIRANAGA: Any other questions? I have a
20 question.

21 MS. PULMANO: This is going to be the toughest
22 one, right?

23 CHAIR HIRANAGA: Now that you've proposed to
24 reduce the number of turbines from 15 to eight, I noticed
25 that you have them aligned basically up and down the hill.

1 And I'm wondering why you would not locate them at the
2 bottom of your wind farm site; thereby, mitigating or
3 increasing the distance from Piilani Highway by lowering the
4 blades as far as visual view?

5 MS. PULMANO: That's a tough question. The wind
6 turbine -- the alignment now, we thought that this would be
7 less impacts to the biological and archeological as opposed
8 to spreading it down across the site like that. Is there a
9 technical reason why also?

10 MR. DMOHOWSKI: Well, the main reason is -- all
11 the impacts particularly to the ground will be less. If
12 you've been over there, it's pretty steep. So, if you see
13 it the way it is now, there's switchbacks basically going
14 all the way down. We would still have to do those
15 switchbacks all the way down the eastern side. We would
16 still have to do the switchbacks turning back and forth all
17 the way down the eastern side, and have to do them over
18 there. So, you wouldn't be quite doubling your impacted
19 area, but it would be more than 25 percent increase impacted
20 area.

21 So, increase primarily in the cultural and the
22 archeology and the biological impacts, so it just made more
23 sense to us that way. We also thought, you know,
24 aesthetically, we thought a single line was a little bit
25 more cleaner than having them grouped together.

1 CHAIR HIRANAGA: I mean to the suspicious mind, it
2 looks like you're setting up for Phase 2 sometime in the
3 future. But I'm not suspicious.

4 I know you have to come back for a special use
5 permit eventually and a major SMA permit, so I think a more
6 detailed explanation of the different alignments would be
7 something I would be expecting. Because the challenge for
8 me is the impact to the public of the basically pristine
9 ocean views that you will be affecting.

10 And by doubling the distance of this wind farm
11 from Piilani Highway by stacking them at the bottom is a
12 strong consideration for me. How far is the distance from
13 the lowest windmill to the shoreline approximately?

14 MS. PULMANO: It's about 1,000 feet from that
15 windmill site to the ocean.

16 CHAIR HIRANAGA: 1,000 feet? Well, so the top
17 windmill right now is eight-tenths of a mile approximately?

18 MS. PULMANO: It's actually from here to about
19 this distance is about six-tenths of a mile, .6.

20 CHAIR HIRANAGA: 1,000 feet. You're going to have
21 a nice view of those windmills from the ocean.

22 COMMISSIONER SHIBUYA: Big view.

23 CHAIR HIRANAGA: Thank you. Commissioner Shibuya,
24 you have another question?

25 COMMISSIONER SHIBUYA: A few seconds only. This

1 one deals with sound. And because it's larger now and still
2 1,000 feet away from what, the highway, is that where it is,
3 the road highway?

4 DIRECTOR SPENCE: The shoreline.

5 COMMISSIONER SHIBUYA: There would be a sound
6 that's quite loud. What would be the decibel level at that
7 point? I'm looking at your Page 6. What is that, Volume 3,
8 Appendix Part 2 of 2. It talks about acoustics. And I see
9 on the Table 2, sound pressure levels and relative loudness
10 of typical noise sources and soundscapes.

11 See, I think we're really concentrating on
12 archeological aspects, and that's why I think there's some
13 concern here. It's close to human habitation now.

14 CHAIR HIRANAGA: Any other questions? Just a
15 final comment since I just realized that the lowest turbine
16 will be approximately 1,000 feet from the shoreline. When
17 you come back to us in the future, please take a closer look
18 at what the optimum layout might be to mitigate impacts to
19 the Piilani Highway ocean views as well as shoreline uses,
20 campers or whatever as far as sound and sight.

21 So, maybe this one particular alignment may be not
22 the optimum alignment and maybe mitigating those concerns.

23 MS. PULMANO: Are you talking about the Hoapili
24 Trail down at the bottom here?

25 CHAIR HIRANAGA: Yeah.

1 MS. PULMANO: So, Piilani Highway.

2 CHAIR HIRANAGA: Trying to figure out where those
3 eight turbines should be placed to balance the impact to
4 both the highway above and the roadway below the trail.
5 Take a stronger look at it versus just saying we think it's
6 the best place or know it's the best place.

7 MS. PULMANO: Thank you.

8 CHAIR HIRANAGA: Commissioner Mardfin.

9 COMMISSIONER MARDFIN: Mr. Chairman, I don't want
10 to cut anybody's questions off. But if people are basically
11 finished, I'm willing -- and we can get the recommendation
12 of the planner. And I'm willing to make a motion. But in
13 the motion, after I make a motion, I would like to amend it
14 to give them some of our concerns so that when they come
15 back for a permit, they'll have addressed the kinds of
16 things we've said here.

17 CHAIR HIRANAGA: Commissioner Shibuya.

18 COMMISSIONER SHIBUYA: I was going to say the same
19 thing. I was ready to make a motion.

20 DIRECTOR SPENCE: You're either just accepting --
21 the question was if there was a recommendation or not. And
22 really what the action before the Commission is to accept
23 the EIS as a complete document or not.

24 CHAIR HIRANAGA: The floor is open to a motion.

25 COMMISSIONER MARDFIN: I move to accept the final

1 environmental impact statement for the Auwahi Wind Farm as a
2 completed document.

3 CHAIR HIRANAGA: Is there a second?

4 COMMISSIONER WAKIDA: Second.

5 CHAIR HIRANAGA: Seconded my Commissioner Wakida.
6 Discussion. Commissioner Mardfin.

7 COMMISSIONER MARDFIN: Mr. Chairman, I have a
8 number of things that I still have concerns about, but
9 following the direction of our esteemed Director, I think we
10 can let them know what the concerns are, and then they can
11 deal with it before they come back for their permits. But
12 it won't hold this up. Shall we make a list of things that
13 we're concerned about? You put one on there already.

14 CHAIR HIRANAGA: It's 5:00.

15 COMMISSIONER MARDFIN: It shouldn't take too long.

16 CHAIR HIRANAGA: Do you think the minutes will
17 suffice to inform them of our concerns, or do you need to
18 repeat them?

19 COMMISSIONER SHIBUYA: No, I think it's adequate.

20 COMMISSIONER MARDFIN: Have the consultants heard
21 what we said?

22 CHAIR HIRANAGA: Well, they'll have a chance to
23 examine the minutes.

24 MS. PULMANO: And I have Neal from our office,
25 he's been taking copious notes.

1 COMMISSIONER MARDFIN: I would just say our
2 concerns that we've raised individually should be
3 interpreted as coming from the group, and I don't need to
4 make an amendment.

5 CHAIR HIRANAGA: Any other discussion? No
6 discussion. Director, repeat the motion.

7 DIRECTOR SPENCE: The motion is to approve the EIS
8 as a complete document, accept the document.

9 CHAIR HIRANAGA: All in favor, raise your hands.

10 DIRECTOR SPENCE: Six aye's.

11 CHAIR HIRANAGA: Opposed? Motion carries. Thank
12 you very much. I would like to at least accept the minutes
13 on the agenda, action minutes of July 26, regular minutes of
14 April 26th, and the portion of the June 28, 2011 minutes
15 pertaining to Item C(4) and C(5). If anyone is willing to
16 make a motion, motion to accept these minutes?

17 COMMISSIONER WAKIDA: So move.

18 CHAIR HIRANAGA: Commissioner Wakida.

19 COMMISSIONER SHIBUYA: Second.

20 CHAIR HIRANAGA: Second by Commissioner Shibuya.
21 Any discussion? All in favor, say aye.

22 COMMISSIONERS: Aye.

23 CHAIR HIRANAGA: Opposed? Motion carries. If
24 there's no objection, we'll just skip down to F(5), which is
25 meeting agenda items.

1 MR. YOSHIDA: Mr. Chairman, Members of the Board,
2 we're going to go with Plan B since Plan A was the Waipio
3 Bay SMA appeal contested case, which got moved to September
4 27th. So, we're going to deal with the Pulelehuakea minor
5 SMA acceptance and have a workshop on TVR enforcement and
6 also the time extensions for conditional permits for Maui
7 Youth and Family Support Services and the SMA time extension
8 to initiate the four-lot condo at Makena.

9 CHAIR HIRANAGA: Thank you very much. Any
10 questions? Seeing none, if there is no objection, this
11 meeting is adjourned. Thank you very much.

12 (The meeting ended at 5:00 p.m.)

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C E R T I F I C A T I O N

I, RACHELLE PRIMEAUX, Notary Public for the State of Hawaii, certify:

That the proceedings contained herein were taken by me in machine shorthand and were thereafter reduced to print under my supervision by means of computer-aided transcription; that the foregoing represents, to the best of my ability, a true and accurate transcript of the proceedings had in the foregoing matter.

I further certify that I am neither attorney for any of the parties hereto nor in any way concerned with the cause.

Dated this _____ day of _____, 2011.

NOTARY PUBLIC, State of Hawaii

My commission expires 6/14/2012