

**MAUI PLANNING COMMISSION  
REGULAR MINUTES  
NOVEMBER 8, 2011**

**Approved: 5/22/12**

**A. CALL TO ORDER**

The regular meeting of the Maui Planning Commission was called to order by Chairperson Kent Hiranaga at approximately 9:01 a.m., Tuesday, November 8, 2011, Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui.

A quorum of the Commission was present. (See Record of Attendance.)

Chair Hiranaga: ...November 8, 2011, and this is the Maui Planning Commission meeting. At this time, I will open the floor to public testimony. Anyone wishing to testify on any agenda item may do so at this time. Please identify yourself and limit your testimony to three minutes. Seems we have a full house today, not sure what agenda item, but--so we'll try to go through the testimony as expeditiously as possible. First person signed up has very nice handwriting that I have difficulty reading, Donna?

The following individuals testified at the beginning of the meeting:

Donna Sterling - Item B-1, Auwahi Wind Energy, LLC, CUP and SMA  
Aimoku Pali, Sr. - Item B-1, Auwahi Wind Energy, LLC, CUP and SMA  
Earl Moler - Item B-1, Auwahi Wind Energy, LLC, CUP and SMA  
Jay Reyes - Item B-1, Auwahi Wind Energy, LLC, CUP and SMA  
Mikahala Kermabon - Item B-1, Auwahi Wind Energy, LLC, CUP and SMA  
Walter Kanamu - Item B-1, Auwahi Wind Energy, LLC, CUP and SMA  
Harry Newman - Item B-1, Auwahi Wind Energy, LLC, CUP and SMA  
Cully Chun - Item B-1, Auwahi Wind Energy, LLC, CUP and SMA  
Dale Bonar - Item B-1, Auwahi Wind Energy, LLC, CUP and SMA  
Beverly Kravitt - Item B-1, Auwahi Wind Energy, LLC, CUP and SMA  
Thomas Stansberry - Item B-1, Auwahi Wind Energy, LLC, CUP and SMA  
Dick Mayer - Item B-1, Auwahi Wind Energy, LLC, CUP and SMA  
Sumner Erdman - Item B-1, Auwahi Wind Energy, LLC, CUP and SMA  
Paige DePonte - Item B-1, Auwahi Wind Energy, LLC, CUP and SMA  
Ryan Wendt - Item B-1, Auwahi Wind Energy, LLC, CUP and SMA  
Pardee Erdman - Item B-1, Auwahi Wind Energy, LLC, CUP and SMA  
Ken Hertz - Item B-1, Auwahi Wind Energy, LLC, CUP and SMA  
Lucienne deNaie - Item B-1, Auwahi Wind Energy, LLC, CUP and SMA  
Doug McLeod - Item B-1, Auwahi Wind Energy, LLC, CUP and SMA  
Henry Kahula - Item B-1, Auwahi Wind Energy, LLC, CUP and SMA  
Lanny Hokoana-English - Item B-1, Auwahi Wind Energy, LLC, CUP and SMA  
Patricia Nishiyama - Item B-1, Auwahi Wind Energy, LLC, CUP and SMA  
Leilani Chock - Item B-1, Auwahi Wind Energy, LLC, CUP and SMA  
Irene Bowie - Item B-1, Auwahi Wind Energy, LLC, CUP and SMA

Their testimony can be found under the item on which they testified on.

Chair Hiranaga: Seeing none, anyone else wishes to provide testimony at this time regarding any agenda item? Seeing none, public testimony is closed. We'll take a ten-minute recess and reconvene at 10:40.

A recess was called at 10:30 a.m., and the meeting was reconvened at 10:40 a.m.

Chair Hiranaga: Next agenda item is Public Hearing B-1. Deputy Director.

Ms. McLean: Thank you, Chair. The Commission had two public hearing items on its agenda today. They're related to the Auwahi Wind Farm. The first public hearing item is the request by Auwahi Wind Energy, LLC requesting a County Special Use Permit and a Special Management Area Use Permit for the construction and operation of the wind farm which consists of eight wind turbines with a net generating capacity of 21 megawatts. It also includes an energy storage system, collector switchyard and other facilities crossing eight parcels in Ulupalakua. The Staff Planner for this project is Joe Prutch. He's not available today, and covering for him will be Ann Cua.

**B. PUBLIC HEARING (Action to be taken after public hearing.)**

- 1. MR. MITCH DHOMHOWSKI of AUWAHI WIND ENERGY, LLC requesting a County Special Use Permit and a Special Management Area Use Permit to construct and operate the Auwahi Wind Farm consisting of eight (8) wind turbine generators with a net generating capacity of 21 megawatts, augmented with an energy storage system. Also includes collector switchyard; operations and maintenance facility and related infrastructure; a 14.5-kilometer 9-mile long 34.5 kilovolt (kV) generator tie-line; interconnection substation; microwave communication tower; and construction access route along existing public roadways and pastoral roads at TMK: 1-9-001: 006, 2-1-002: 001, 2-1-002: 002, 2-1-004: 006; 2-1-004: 049, 2-1-004: 999, 2-1-005: 108, 2-1-008: 001, 2-1-008: 131, and 2-1-008: 999, Ulupalakua, Island of Maui. (CUP 2011/0002) (SM1 2011/0002) (J. Prutch)**

Ms. Cua: Good morning, Mr. Chair and Members of the Commission. I'd like to just make a brief introduction and then I'm gonna be introducing the applicant to take you through a Power Point presentation then I'll come back and make some additional comments before get onto the recommendation. You were passed out this morning a number of, of documents most of the, most of which were letters, letters from the public. All of the letters that were passed out, the individuals were here and testified before you this morning. The only--except for one and that is the letter from Senator J. Kalani English and basically it is a letter in support of the project. The other two documents that were distributed that I wanted to make mention of is first a letter of response from the applicant's consultants, Munekiyo and Hiraga, to Mr. and Mrs. Kravitt and Mrs. Beverly Kravitt did speak with you and address you as part of public testimony. But this letter dated November 8, 2011 is a response letter to the letter that Mrs. Kravitt wrote dated November 1, 2011.

And finally, when the Planning Commission reviewed the Final Environmental Assessment document, you had a number of comments that you asked the applicant to address. And the letter that I distributed dated November 8, 2011 was addressed to Director Will Spence basically goes

through all of the comments that the Commission had and gives an explanation of all the issues that you raised. The applicant is gonna go through these issues one by one in their Power Point presentation so I won't take the time to go through that with you. So at this point in time I do wanna introduce you to the applicant, who'll be presenting them would be Leilani Pulmano from Munekiyo and Hiraga, and they'll take you through a Power Point presentation.

Ms. Leilani Pulmano: Good morning, my name is Leilani Pulmano of Munekiyo and Hiraga. We're the planning consultants for this project and I am representing the Auwahi Wind Farm on behalf of the applicants, Auwahi Wind Energy and Maui Electric Company. As Ann indicated, we're requesting an approval of a SMA and a County Special Use Permit for the Auwahi Wind Farm project. This is a consolidated public hearing for Agenda Items No. 1 and No. 2. There are three requests before you. One is the SMA for the Auwahi Wind Farm Energy, for the wind farm site and the improvements to the portion of Papaka Road in Makena Road; the second is a County Special Use Permit for the Auwahi Wind Farm Energy for the wind farm site and their portion of the interconnection substation; and the third is for a County Special Use Permit for MECO for their portion of the interconnection substation.

We have representatives from the ranch and the applicants along with a long list of the project team and I won't introduce everybody it will take us a long time, so I'll just quickly go through this. To give you an overview of our presentation, I'm gonna briefly describe the project and the SMA and CUP requests, and as you requested at our Final EIS meeting our presentation today will focus on your comments that we received that day. At the end of the presentation, the project team will be here for your questions.

The Auwahi Wind Farm will produce 21 megawatts of clean renewable energy for Maui Island which is about enough electricity to, to provide for 10,000 homes and reduce greenhouse gasses by about 76,000 tons. That's a per year number. The power generated would help to provide long-term price stability for consumers. Additionally, the ranch could continue to use the lands for cattle ranching and the project is located in the Ulupalakua region here. There are three main components of the project. The first component is the wind farm site which is located in Ulupalakua Ranch; the second component is a nine-mile transmission line and the interconnection substation which crosses Ulupalakua to South Maui; and the third component is a construction access route and there are two routes. One route through Wailea-Makena using Papaka Road which is an existing ranch road and will continue to be used as a existing ranch road after the completion of the project. And the second construction access route is Kula Highway.

The entire project includes 28 different parcels. The green line here, I'm sorry, you can barely see the green though, this line here, is the SMA boundary. The SMA only affects nine parcels and actually only five of those parcels have work in the SMA area. The wind farm site is located in the SMA. So this area here and a small portion of Papaka Road here. In terms of the County Special Permit for agricultural zoned lands. These effects those two parcels as I highlighted. And please note that it is an outright permitted use in the State Agricultural Land Use District but requires a County Special Use Permit because of County Agricultural zoned lands.

Since the final EIS, the applicant has been working on engineering details. One of the design alternatives that have come up is to use two temporary MET towers to replace the permanent MET

towers. The MET towers are to test the performance of the wind turbine generators. One of the temporary MET towers will be located at Pad 5 here and will be taken down to install the wind turbine in that location. And the other temporary MET tower will be located east of Pad 5 here and then will be taken down at the end of construction. This is a design alternative that the project is taking a closer look at and we want to discuss this today as a possibility and include it in the record. This design alternative is attractive because it's a--it's temporary and will be taken down at the end of construction versus keeping a permanent MET tower. So the temporary MET towers replace the permanent MET tower.

And as Ann was--had said previously, at the Final EIS hearing you discussed 12 comments and we will be providing responses to you, to you today. The response letter that was provided to you reflects this presentation so you can follow along with the presentation itself.

Comment No. 1: Explain Section 106, the National Historic Preservation Act. Is it a necessary permit for this project? Are Federal tax credits considered Federal funding as it pertains to Section 106? The U.S. Fish and Wildlife is consulting with SHPD if the 106 is triggered. We are still waiting for the final determination as it relates to the requirements of the Incidental Take Permit and the Habitat Conservation Plan. As you may recall, I explained that the Incidental Take Permit is considered a Federal undertaking that triggers compliance. In this case, U.S. Fish and Wildlife must consult with SHPD. We anticipate that U.S. Fish and Wildlife will likely reach the conclusion that a Section 106 is not required. And in terms of Federal tax credits, Federal tax credits in and of itself is not considered a trigger.

Comment 2: Disclose total archaeological sites and features and provide an accurate assessment on the number of these features that will be affected by the project and where. Particularly which significant sites will be affected. In the project there are a total of 1,104 features within a 174 sites. The wind farm has 586 features within 77 sites. Papaka Road has 334 features within in 53 sites. And the transmission line and interconnect substation has a 178 features within 42 sites. Maps of the archaeological resources were provided in the Final EIS, Appendix E. In the AIS, it's Figures 6 to 29 and the Supplemental AIS, it's Figures 22 to 39. And for your ease of information, I have sets of consolidated maps if you're interested. All possible--a burials, possible burials and heiaus will be avoided and SHPD has approved the AIS Reports and I'll be submitting the approval letters to, to Ann today.

Comment 3: Details of the wind turbines. Additional height of the 3.0 megawatt towers compared to 1.5 megawatt towers, the fire possibilities, lightening strikes and EMF disturbance. The difference in the height between the Siemens 3.0 turbines versus the GE 1.5 turbines is 30 feet taller. The structural integrity of the Siemens 3.0 turbines is certified by Det Norske Veritas which is an independent foundation that certifies turbines according to standards established by the International Electrotechnical Commission. The additional height of the Siemens 3.0 does not increase the risk of fire, lightening strikes and EMF. The turbine is equipped with a fire prevention system that automatically stops components from running if a fire is detected. It also has a integrated lightening protection system and there is no exposure to EMF because the EMF is enclosed in the turbine itself.

Comment No. 4: Information on Comsearch data as it pertains to the project. A discussion on

Comsearch was included in the Final EIS. Comsearch is a company that identifies the potential impact of wind turbines on telecommunications backbone infrastructure. Based on their research, the wind farm will not impact broad band telecommunications.

I've combined all of the transportation comments into one slide. So Comment 5 reads: Traffic during morning rush hour particularly school traffic. Comment 7: Is the super loads travel times from the harbor to the sight, time and day, dates of travel, et cetera. Comment 11: Where will wind mill parts be stored between delivery to the harbor and the actual transportation to the site? How long will this occur? Construction traffic will traverse the highways during non-peak hours. The current plan for the super loads is transport during 7:00 p.m. to 10:00 p.m. along roadways within Wailea and Makena. In addition, concrete trucks will deliver during non-peak hours.

As I mentioned previously, since the Final EIS, the applicant has been working on engineering details. A concern from the last meeting was about the concrete truck trips. As you recall, the monolithic pour would require about 40 concrete trucks per day for eight days. One of the design alternatives that the engineering team is looking at is using concrete anchors instead of a monolithic pour and this alternative would reduce the concrete truck trips to 15 trucks per day for eight days. This is a design alternative that the applicant continues to look at and will finalize the structural design within the next couple months.

In terms of transport time from the harbor, this will also occur during non-peak hours to the lay down site. Remember that there are a total 56 super loads. Each wind turbine has seven separate loads. There are six options for the lay down area to store the wind turbine generator components as seen on this slide. Ideally, the storage for the wind turbine generators will be approximately three months.

Comment 6: Iwa (Frigate birds) observed at the site and possible impacts. No Iwa were observed during radar or avian surveys.

Comment 8: Discuss the price rate tiers and what that means to the public. How might the public's electricity bills be either lowered or stabilized? The Purchase Power Agreement was approved in June of this year. It calls for MECO to purchase the energy at \$200 per megawatt hour with an annual 1 ½ price escalation. That's a annual 1 ½ percent. The price drops to \$50 per megawatt hour for any energy that MECO purchases above 83,000 megawatts per year. The term of the Purchase Power Agreement is for 20 years. This set cost of energy helps to stabilize consumer prices of electricity compared to MECO's purchasing oil to generate electricity because oil fluctuates in price. And as a reference, today's oil prices are at about \$94 a barrel.

Comment 9: Undergrounding of the generator-tie lines from the wind mills to approximately 200 feet mauka of Upcountry Piilani Highway in an effort to reduce visual impacts within the SMA from the highway to the ocean. The Commission actually asked us to look at undergrounding 200 feet mauka and makai of Upcountry Piilani Highway at the wind farm site. The applicant understands the visual concerns is willing to underground the transmission line as the Commission requested. Naturally we want to be sensitive to the resources that may be impacted so we prepared this map that shows the archaeological features within this area. So just to give you a reference, this is Upcountry Piilani Highway and this is the generator transmission line that runs across the highway.

This dash lines on the end, on each end of that is the transmission line corridor and all of the colored areas are archaeological features within this area and it seems as if we will try to do our best to avoid, avoid these archaeological features, but it may not always be possible.

Comment 10: The Commission learned that the pre-contact artifacts become property of landowner, Ulupalakua Ranch. Describe plans, if any, of the Ranch for various artifacts. The Ranch has decided to return the artifacts at the location where each artifact was found after the completion of construction.

Comment 12: Look into other locations for the site for all eight wind turbines. Locating them lower on the site could take advantage of better wind quality while lessening the visual impacts to the residents nearby and drivers along Upcountry Piilani Highway or locating them in the middle of the project site could limit the visual impacts from both the residents and highway traffic and hikers at the trail along the shoreline. As you may recall, the initial design included 15 wind turbine generator locations as you see here. Throughout the EIS process as more information and concerns were brought up, the engineering team continuously analyzed the optimal layout of the wind turbine generators. To reduce impacts to environmental and natural resources, the applicant decided to use the Siemens 3.0 wind turbines which reduced the number of turbines to eight. Once they knew that it would be eight turbines the layout was then considered. The west string of turbines, this string was always going to be more complicated to construct. The topography on the west string is steeper and less forgiving than the east string. The west string would require greater cut and fill disturbing more areas. A portion of the west string was within a Flood Zone A, these three turbines at the bottom here at which will require a flood development process. The west string also did not have as many existing ranch roads and would require new access routes to be cut in, again disturbing more areas. And finally, wind conditions in the east string was better and it would require, if the west string was used, it would require more area to get the same potential energy. So the engineering team determined that the east string was the optimal layout that reduces impacts to environmental and natural resources as currently designed and as you see here.

The Commission also asked us to look at a 4x4 layout, four on each side at the bottom of the wind farm site to reduce visual impacts. So four on the west string and four on the east string. This layout has the same negative constructability aspects as I outlined previously. The topography for the four turbines on the west is steeper and rougher. These turbines are located in the Flood Zone A, these three bottom turbines here and new roads would be--would need to be constructed. In terms of the visual impacts, you can see the difference visually between the 4x4 versus the eastern string layout. The top visual is the eastern string layout and the eight turbines in a row as currently designed and the bottom visual is the 4x4 layout. In this area, the visual perception will mainly be from the motorists traveling the Upcountry highway. They will be driving at about 20, 30 miles an hour past this site and at that speed, the perception of the visual difference between the east string and the 4x4 will be probably minimal. The analysis thus far during the past several years has shown the optimal layout with the least amount of impacts to the environment and natural resources is the east string layout as currently designed.

Another comment that didn't make it in the summary, but I recall from reading the minutes was about community benefits, and as you may recall, the Community Benefits Package was designed to provide benefits to the most affected stakeholders which were identified as the surrounding

community. Sempra and Ulupalakua Ranch have been working with the surrounding community to identify which benefits to help offset the impacts to their rural community and this is a list of those benefits. At the last meeting we did provide--we talked about providing a potable water well as a benefit to Kahikinui homesteaders and as you heard in the testimony and after further discussions with them, they identified that the improvements to the road within their subdivision was much more important than the well. The applicant has agreed to improve the road. And just to give a context of what that road is, we drove up there and from the bottom to about, just over a mile it took us 45 minutes to get up to the top, and the road itself, will be ten feet--will be about ten feet wide and it will be concrete because of the slopes there.

Commissioners at the appropriate time, may I please ask for your consideration to discuss the condition on the expiration date for the County Special Use Permit? In the meantime, the project team is here for your questions if you have any. And today we're asking for the approval of the SMA and the County Special Use Permit. Thank you.

Chair Hiranaga: Thank you. Ann, did you have comments you'd like to provide from the Department?

Ms. Cua: I would like to provide just some, some brief comments before we go into to questions and answers. First, just a procedural thing. Just to remind the Commission that you did see the Draft Environmental Assessment for this project in March of this year. You also saw the Final Environmental Assessment on August 9<sup>th</sup> and recommended approval of that. The Final EIS was posted in the OEQC Environmental Notice on August 23, 2011 for a 60-day challenge period. The 60-day challenge period passed on October 22, 2011 with no challenge to the Final EIS which allows you to proceed with the project today.

In terms of State and County policies that are in place, I do wanna point out that in terms of the State Land Use Plan, the Hawaii State Plan, the project is compliant very strongly with policies relating to agriculture and energy as was discussed here today. In terms of the State Land Use District, the proposed project is a permissible use and a State Special Permit is not required. Relative to the Special Management Area Rules which you are reviewing a Special Management Area Permit, well we do wanna point out that the project is compliant with or will not have a significant effect on various resources in the coastal management--coastal zone area. Trying to just summarize very quickly.

In terms of the community plan, the project actually crosses three community plan regions, and we just wanted to point out that we've listed in the report a number of policies, goals and objectives that the project is compliant with specifically in the areas of environment, cultural resources, physical infrastructure and energy and public utilities.

In terms of the County's Agricultural District, the purpose of the Agricultural District is to promote agricultural development, to preserve and protect agricultural resources and support the agricultural character and components of the County's economy and lifestyle. And the intent of, of the Ag District is to reduce land use conflicts arising from encroachment of non-agricultural uses into agricultural areas to mitigate rising property values of farm lands to make agricultural use more economically feasible, and discourage developing or subdividing lands within the Agricultural

District for residential uses thereby preserving agricultural lands. The proposed project does meet the purpose and intent of the Ag District although there is development proposed on Ag lands, the towers and electrical poles allow for agricultural uses on the ground as there is very little ground disturbance from these structures. In terms of the district standards within the Ag District, we just wanna note that the project does meet the standards, but since all the wind towers are well over 35 feet in height, they will be set back from the side property line one additional foot for every foot in height above 35 feet. If this setback for some reason cannot be met because of access road alignment and known archaeological resources, the applicant will apply for a variance to the Board of Variances and Appeals. If a variance is not approved, the applicant will be required to meet the setback standard for maximum height. Also with regard to use, a wind farm facility is not listed as a permitted use in the Ag District and that's why a Special Use Permit is needed and that's why we're here today.

The only other thing I do wanna point out because we can get into questions on infrastructure if needed and the applicant addressed traffic which is a major concern with the community. I wanna just briefly talk about the Community Benefits Package which is attached as Exhibit 42 to your report. As you heard today, there was a lot of discussion from the applicant's side with the community and there has been agreement on the Community Benefits Package and we do have proposed as a condition, specifically Condition No. 19, an agreement that was reached between the community and the applicant with regard to this Community Benefits Package and we can discuss that further. In terms of testimony, we mentioned in this report that we had not received any as of the writing of this report, however, you did receive a number of letters today all in support of the project. So with that, I would like to get into questions and, and after that we can go into recommendations.

Chair Hiranaga: Thank you. Ann.

**a) Public Hearing**

The following testimony was received at the beginning of the meeting:

Ms. Donna Sterling: Good morning, before I start --

Chair Hiranaga: Please identify yourself.

Ms. Sterling: Yes, I'm Donna Sterling resident of Kahikinui here to address the Auwahi, Sempra Wind Turbine Project. Before I give my mana`o, I'd like to have the Commission acknowledge behind me residents and lessees of Kahikinui. Can you raise your hand please? They're here to address also the, the Auwahi wind turbine. Anyway, good morning Chairman and Planning Commission. My name is Donna Sterling. For 11 years I have resided at Kahikinui Homestead, Lot 41 on Nawini Road. I am in support of this project. I would like to share my family's thoughts regarding the visual impact from a resident's point of view. From our Lot 41, we are unable to see the wind turbines. When we leave the homestead and head in the westerly direction on the Piilani Highway for town we will be able to get our first sight of the wind farm according to the projected location on the map. At approximately the Lualailua Pali or 22 mile marker. Our family travels to the city two to three times a week from the homestead. Our family travels three times a week, four



times a month means 288 times a year we will visibly see or pass the wind farm. We are, however, very pleased about the turbine project and accept the current design of one row of eight connected turbines. I've attended many meetings regarding this project and commend Sempra for taking the time, making the effort and commitment to address issues both short and long term for a win-win result. In closing, it has been a pleasure and we look forward to working with Sempra for many years to come. We believe Sempra's positive and proactive approach to my family, my community, will continue throughout the life of this project. Mahalo.

Chair Hiranaga: Thank you. Questions, Commissioners? Seeing none, thank you. Commissioner Mardfin?

Mr. Mardfin: Are you--you're familiar with the benefit package they're offering to the Kahikinui community?

Ms. Sterling: Yes I am.

Mr. Mardfin: And what does that generally entail?

Ms. Sterling: Discussing of road improvements to our road.

Mr. Mardfin: Anything about water or electricity?

Ms. Sterling: Not yet. We're, we're--we don't know. I don't know yet.

Mr. Mardfin: Okay, thank you.

Chair Hiranaga: Any other questions, Commissioners? Seeing none, thank you. Next individual is Aimoku Pali, Sr.

Mr. Aimoku Pali, Sr.: Mr. Chairman, and fellow Commissioners, my name is Aimoku Pali. I'm a lessee homeowner from Department of Hawaiian Homelands, Kahekili Homestead. I'm also the president of Ka Ohana O Kahikinui, our homestead community association. Our association board members have met with Sempra's representative on several occasions to discuss the Community Benefit Package, who identified repairs and improvements to our existing main homestead road as a priority need of our community. In trying to help access various problems there are of our main road Sempra went above and beyond in this effort by bringing several of their project civil engineers to do a site inspection. Sempra has agreed to make repairs and improvements to our main homestead road. We appreciate their willingness to provide a much needed benefit for our community and therefore, fully support approval of this SMA/CUP Permit application. We expect to work well with Sempra in a new neighbor and look forward to continued good relationship throughout the future of the project. Mahalo for giving me the opportunity to provide, provide testimony before the Commission. Aimoku Pali, Lot 75, Kahikinui Homestead, P. O. Box 1132, Kula, Hawaii, (808)760-3028. Mahalo.

Chair Hiranaga: Questions, Commissioners? Seeing none, thank you.

Mr. Pali, Sr.: Thank you.

Chair Hiranaga: Earl, starts with an "M."

Mr. Earl Moler: Aloha and good morning, Mr. Chairman, fellow Commission Members, our Ohana O Kahikinui, our family and friends. My name is Earl Moler. I am a lessee of Kahikinui. I live in Kahikinui and I am currently building a home on Kahikinui about Manukani. Mahalo nui loa no na mea apau. Thank you very much for everything. Sempra Generation, Auwahi Wind Energy, Mitch and Company, Munekiyo and Hiraga, Leilani and associates, Ulupalakua Ranch, Sumner and staff, our Ohana O Kahikinui and our Department of Hawaiian Homelands for creating and keeping an honest and--keeping an open and honest relationship and for actually listening to our community's needs and we believe that we have all learned and benefitted from this relationship historically speaking. We have been in discussion about alternative wind energy for over four years. First with Shell Wind Energy, second with Sempra Energy, third Sempra Generation and Auwahi Wind Energy about our need for better, safer roads, our need for potable water and our needs for renewable energy. Our community believe that we have reached a decision that our Community Benefit Package has manifested into and I quote, "a benefits package which is in keeping with fundamental principles of nexus and proportionality." Thank you, Munekiyo. We also agree they are very happy with our robust CBP, mahalo nui loa Mr. Doug McLeod, Maui Energy Commissioner and Mr. Alan Arakawa, our Maui County Mayor. In closing, our ohana look forward to a long-lasting relationship with continued open communications, honesty and respect surely with no broken promises of our CBP or our MOU for the life of the project. Mahalo, mahalo, mahalo for your patience, your time and your kokua. Malama pono.

Chair Hiranaga: Questions, Commissioners? Commissioner Mardfin?

Mr. Mardfin: Sir, you mentioned potable water. What's, what's gonna happen with that to your understanding?

Mr. Moler: Right now, we, we have potable water in Ulupalakua. We have it in Ulupalakua, so if we had a water tank on the side of the road it wouldn't benefit us as much as the roads would benefit us to get our community on land so we can start taking care of our aina, sir.

Mr. Mardfin: So there's no agreement about potable water?

Mr. Moler: Hopefully, we may still come to an agreement. We're open for discussion.

Mr. Mardfin: Thank you very much, sir.

Mr. Moler: Thank you.

Chair Hiranaga: Any other questions, Commissioners? Seeing none, thank you. Next individual is Jay Keyes, Jay Reys, Jay Reyes, sorry, apologize.

Mr. Jay Reyes: Aloha, Chairman, rest of the board. I'm Jay Reyes, Lot No. 61. First of all, I'd just like to thank, thank is Ulupalakua Ranch for giving us like water and Sempra for coming out here

to Maui and looking at the aina and is working with us and we will definitely ...(inaudible)... with them. In Kahikinui, we have upcoming keikis and if we can work with Sempra and they work with us it would benefit is the future for our keikis that's living now in Kahikinui. I'm in support with this project. My two braddahs on Lot 60 and 59, they're in support. Mahalo.

Chair Hiranaga: Thank you. Questions, Commissioners? Seeing none, thank you. Next individual Mikahala Kermabon.

Ms. Mikahala Kermabon: Good morning. My name is Mikahala Kermabon. I'm here for the Auwahi Wind Energy Project. Our home is on the 18 mile marker in Kanaio, makai side. Our family extends out to Lot 7 of Kahikinui lower lots. This project is definitely needed. My commends to Sempra. My concern is the impact of the noise generated from the eight windmills. For the past 20 years, I've been privileged with the beauty of quietness. When our winds pick up coming from any direction it is very loud. One can hear the whistling sound. When this happens with all eight windmills turning will this sound be deafening and possibly causing hearing loss? What I would like is to know how it will affect, the sounds will affect my family and my animals, what extent that would be. Thank you.

Chair Hiranaga: Questions, Commissioners? Seeing none --

Mr. Mardfin: Yes.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: Have you spoken with their engineers because we asked about noise and they gave us some answers that seemed satisfactory to us at least?

Ms. Kermabon: I'm sorry, I have not had the privilege of sitting in any of the meetings which I did sit in on at Ulupalakua and this will be my first ...(inaudible)...

Mr. Mardfin: Thank you very much.

Chair Hiranaga: Any other questions, Commissioners? Seeing none, next testifier is Bud Pikrone.

Mr. Bud Pikrone: Chair, I'd like to defer.

Chair Hiranaga: Okay, Walter Kanamu.

Mr. Walter Kanamu: Aloha ka kou. My name is Walter Kaho`iwai Kanamu, Jr. For a minute, I'd like to throw back to the past. My--I have interest in Kahikinui. I have a lot there and I also have land in Kanaio where my family's been there for ten generations. ...(inaudible)... family. And when I was young, yeah, I remember staying at my grandparent's house. Didn't have bathroom in the house. You had to go to the outhouse, okay. Last week my, my granddaughter goes to Kamehameha School and the teacher asked her to bring two sticks of Hau. They were gonna teach them how to make fire using a stick and how to make kama`a sandals using the--and how to make cordage using that. When I was young my tutu had a horse and buggy carriage that used

to be in the Maui County Fair displayed every year. I don't know if you folks remember that across the old--on Puunene Avenue they had all those buildings, they had a horse and buggy carriage in there. At the house where my tutu was had a chandelier that was a kerosene lamp. You had to lower the thing to light it and pull it up and we had kerosene stoves. In order to take a bath you had to cut fire wood to put it under the heater to boil the water so you could, you know, take a bath with hot water, yeah. In the 70's I told my day, eh I gonna go to Kahoolawe. He say, why? I said, we had to fight for the land back. He said, but why you going that, you know? Do you have electricity? I said, no. Do you have water? I said no. So son, you going backwards, you know. My grandpa, yeah, never did refuse. He had one of the first army jeeps over there given to him by the Baldwins, yeah. He had a jalopy that I used to ride in with the rumble seat in the back when the roads were still gravel. Never refused that. He was progressive and right now we are being held hostage by the countries that produce black oil and also coal, yeah. And we're worried about the visual aspect of these windmills in Kanaio. Every time I get up in the morning and I drive down the road and I look at the smoke stacks in Kahului and Puunene, it visually impacts me and not only that the carbon monoxide it emits into the air I think that we should limit the amount of coals and oil that's being burned by them and promote things like this, wind energy. I own a Toyota Prius I bought seven years ago. My wife told me I was nuts. Now she tells me I'm a genius, you know. I get 54 miles a gallon, you know. She told me, wow, you smart after all. And I think we should seriously limit the amount of coals we burn, limit the amount of black oil that we burn 'cause you see it going up into the air, all that black stuff, where is it, where is it going? It's coming down.

Chair Hiranaga: Okay, sir you need to conclude your comments.

Mr. Kanamu: Okay, bottom line I'm in favor of it and hopefully you can expand and do more. Why don't we have a power plant over there instead of trucking all the lines to Kahului, you know. Mahalo.

Chair Hiranaga: Questions, Commissioners? Seeing none, thank you. Next individual is Harry Newman.

Mr. Harry Newman: Aloha and good morning. My name is Harry Newman. I'm a 12-year resident of Kahikinui and I have ...(inaudible)... off grid living and alternative energy. My wife and I have been to many community meetings sponsored by Ulupalakua Ranch concerning the Auwahi Wind Project. We've always had an excellent working relationship and communication with Ulupalakua Ranch and the neighboring ranches. It's been my observation that Ulupalakua Ranch has been community conscious and have put the welfare of the Hawaiian people and local residents in the forefront of their decision making. I've seen the impact statements and the pictures of the site proposals and we, as an ohana, are in favor of the wind farm. We feel there will be minimal visual impact, but the long term energy contribution will keep the price of fossil fuel energy from completely consuming Maui residents. There is a need for a change of thinking concerning alternative energy. The cost of fossil fuel and the impact that has impacted every way of life here in the islands. We should of all be thinking of ways to cut costs and help support our Maui way of life. I'm confident that the Auwahi Wind Farm will only generate a positive impact within each adjoining community. Our hope is that the creation of clean sustainable energy throughout the islands will continue to benefit the residents therein. I applaud Ulupalakua Ranch and Sempra for being ahead of the times with the alternative energy plan that will benefit Maui residents and for the

continued support of local residents and Hawaiian natives who have made the change to alternative energy. Thank you very much.

Chair Hiranaga: Questions, Commissioners? Commissioner Shibuya?

Mr. Shibuya: Hello, Harry.

Mr. Newman: Hi.

Mr. Shibuya: Thank you very much for coming. I didn't get your last name.

Mr. Newman: Newman.

Mr. Shibuya: Newman. Thank you very much. I just wanted to know how many families are off grid and what do they use the off grid power?

Mr. Newman: We're--basically all the members of the community that are living up there full-time are off grid. Myself, I have a windmill and I also have a commercial windmill and I also have solar panels on my roof.

Mr. Shibuya: To heat up or to generate electricity?

Mr. Newman: To generate electricity for my home. We have water catchment off the roof. So we're pretty much self-sustaining out there and the people who are living out there are very conscious of alternative energies. So we've been doing this for many, many years now and we do appreciate the fact that the rising cost of fossil fuels that we have a way to limit that rise.

Mr. Shibuya: Yeah, thank you very much for keeping the carbon level down. Thank you.

Mr. Newman: Yes.

Chair Hiranaga: Any other questions, Commissioners? Seeing none, thank you.

Mr. Newman: Thank you.

Chair Hiranaga: Next individual is Cully Chun.

Mr. Cully Chun: Good morning. My name is Cully Chun. I'm a property owner in Kanahena, Maui. That is the section that borders Papaka. I'm in favor of this project. I support the project. Ulupalakua Ranch has been a very good neighbor to me. They've been helpful in the community surrounding Ulupalakua Ranch. One of my concerns is, of course, benefitting from the project as far as, as I'm on the grid. I have electricity, I have telephone and I have a water meter, but my main concern--well, not my main concern, but one of the concerns is public safety on the roadways. And on Piilani Highway from mile marker--actually from the Ranch Store to Kaupo, the roadway is very hazardous and because of the amount of traffic and the increase of tourism, tourist vans, tourist cars, ranch employees, the Kahikinui Homestead residents there's a lot of hazards on the road as

far as traffic safety. And where I live at mile marker 16, has a record of traffic incidents and I know for sure, one fatality. So I've gone ahead and spoke with several of our Representatives to make improvements on that road because of traffic hazard and public safety and I haven't had much feedback as far as trying to move forward to make corrections. But I know, I use that turn every day, going home and leaving home. But I would hope that the project contractors and maybe the County of Maui, State of Hawaii could kinda get together and look into matters where there's certain areas that are really hazardous for the public, tourism, residents, whoever travels the road. Anyway, I am in favor of this project. Thank you.

Chair Hiranaga: Questions, Commissioners? Seeing none, next individual is Dale Bonar.

Mr. Dale Bonar: Aloha, Chair Hiranaga, Members of the Commission. My name is Dale Bonar. I'm the executive director of the Hawaiian Islands Land Trust formerly the Maui Coastal Land Trust. And the Land Trust works with willing landowners, jurisdictions, other nonprofits to permanently protect conservation values of significant lands throughout the State. Those conservation values for the greater public good. They're in everyone's best interest that we do our work and I'm going to include the whole range of things whether it's cultural lands, access to beaches, and one of the most important that we've ended up doing or protecting working agricultural lands. The majority of the 17,500 acres we protect are now on Maui and most of those are agricultural lands. Agricultural lands that are being worked and being utilized. The two largest easements we hold over 11,000 acres are on Ulupalakua Ranch and the Auwahi Wind Farm will be for the most part on these conserved lands. When the Erdmans originally proposed putting all of this land into conservation thereby giving up enormous value in their property. We--it was with the understanding that the alternative energies were a use that the land could be made. For us, it was a, it was a matter of careful review and consultation. No other land trust in the nation had done a commercial project of the size that's being proposed here. And we looked very carefully at it. We looked at where we live in the middle of the Pacific ...(inaudible)... distant from any point of land, most remote in area, the huge need we have for sustainability here, and finally recognizing that it's ain't much good to save the ranch if you can't save the rancher. And the keeping lands not only available for working agriculture, but in agriculture is a critical part to the sustainability of us in Hawaii as well as the rest of the world, but they'll catch up. The, the use of non-prime agricultural lands for alternative energies is a recognized use by statute in the State of Hawaii. And I think all of us, you know, will look at, at the use that's done here which is a very low level of pollution compared to the other types of energy we generate. It contributes to our sustainability. It handles us in the event that oil tankers were to stop for two weeks and the cargo ships. And so, we have both accepted this and have become a model for the nation in how these things can be done on permanently protected conservation lands. And so the Land Trust recognizes this use, recognizes its benefit to the, to the citizens of Maui and the State of Hawaii. Thank you.

Chair Hiranaga: Questions, Commissioners? Seeing none, thank you. Next individual Beverly Kravitts, Kravitt.

Ms. Beverly Kravitt: Good morning, I'm Beverly Kravitt. I'm a fairly new neighbor as of three years and one of the reasons I submitted a letter of concern was we had not had any sort of formal notice of any meetings. We do get our mail, we have mail here and the first one I received was October 12<sup>th</sup>. So I'm coming new to this and I cannot address community issues 'cause I'm just not,

I am new enough that I don't think that would right for me to do that. So I really addressed my personal concerns and it's mainly safety for my family, some health issues, the amount of dust going up the road, the road that's being built. I have asthma. My children have asthma. And we, we just really asked if there could be some of the--that issue of the amount of dust addressed. That was my, my major concern, one of my major concern. And the other one was the possibility of any sort of accident. It was insurance and that was another one of my questions. Are we, as a community, insured or is it just, you know, the company doing the work and the ranch perhaps insured? So that was my, my second major question. How are we protected and, you know, God forbid that, you know, there's any kind of disaster, any kind of accident or whatever. So it's as I said, this is really, it's a -- they're personal concerns. We hope to be really good neighbors, good part of this community and we've only had positive interaction with the ranch in the past. So that was the point of my letter of concerns. Thank you.

Chair Hiranaga: Thank you. Questions, Commissioners? Commissioner Shibuya?

Mr. Shibuya: Ms. Kravitt, can you tell me where you're located in reference to this project?

Ms. Kravitt: We're in Ulupalakua. We're on Kanaio-Kalama Park Road.

Mr. Shibuya: I'm not familiar. Do you have a map?

Ms. Kravitt: You know where the winery is?

Mr. Shibuya: Yes.

Ms. Kravitt: We're at three-tenths of a mile from the winery, down the hill.

Mr. Shibuya: Which way?

Ms. Kravitt: Towards the ocean.

Mr. Shibuya: Towards the ocean, okay. And you're next to Piilani Highway?

Ms. Kravitt: That's at the top of our hill, yes.

Mr. Shibuya: Oh, you're on the opposite side of the road?

Ms. Kravitt: From the winery, yes.

Mr. Shibuya: Okay, I'm trying to--help with this. If I go from the winery, I drive down towards Kanaio?

Ms. Kravitt: Yes. You go towards--we're right before St. James, the last church. There is a driveway there, it goes down the hill and we're at the bottom of that hill.

Mr. Shibuya: Okay, how far down?

Ms. Kravitt: Not completely at the bottom. There's one house below us.

Mr. Shibuya: Okay, and in your mind are you about 500 from the project?

Ms. Kravitt: No, I was informed that it was about three-quarters of a mile. We will see the traffic of the trucks going by and just because of the wind in Ulupalakua we expect to have dust blowing during the construction period.

Mr. Shibuya: Okay, I'll ask the project members as to where your home is located and the roadway locations. Thank you.

Ms. Kravitt: Sure.

Chair Hiranaga: Any other questions, Commissioners? Seeing none, thank you. Next individual Thomas Stansberry. Thomas Stansberry?

Mr. Thomas Stansberry: Mr. Chairman, Planning Commission, thank you for your time. My concern is for the visual impact of the 60-foot power poles that will be along the Kula, Ulupalakua visual corridor. The proposed plan has 60-foot poles put 280 feet from my house. They'd be directly in my view corridor and I believe that this could be mitigated quite simply by moving poles to existing crossings of the MECO lines. The MECO lines will cross the highway some 700 feet further west of where the proposed line is. I'm aware that the Environmental Impact Statement sets a pretty narrow parameter, but my wish would be that Sempra and the Planning Commission could work together to narrowly modify the existing conditions and move them so that the horrendous negative impact would not be so deeply felt by my family. Thank you very much. I'm Tom Stansberry, 12901 Kula Highway, Ulupalakua.

Chair Hiranaga: Questions, Commissioners? Seeing none, thank you. Dick Mayer.

Mr. Dick Mayer: Good morning, Commissioners. I had testimony and I hope that you have all gotten a copy of it. Okay, thank you. My testimony is really based on the criteria that you use, supposed to use, suppose to use this proposal. First of all, I wanna say, I'm very much in favor of the wind farm as long as the--certain conditions are met and that they meet the criteria that I'm gonna suggest. You're supposed to look at the No. 4, "the proposed development will not adversely affect or interfere with public or private schools," and it goes on, "roadway and transportation systems," et cetera. Now I'm gonna ask that you adopt the following additional conditions to the ones already listed by the Staff.

No. 1. And I'm gonna summarize here. I'm concerned that the peak load that they're now identifying is from 10:00 a.m., excuse me, from 10:00 p.m. to 10:00 a.m., by going to 10:00 a.m., they'll be going right into the rush hour and so I'm asking you Condition No. 1, "That the off peak hours for super loads and all trucks passing through Kihei-Wailea shall operate only from 8:00 p.m. until 6:00 a.m." So if they're not on the road at a peak traffic time early in the morning when people are going schools, work, et cetera.

No. 2. Regarding traffic signals. "That all traffic signals and signs shall be returned to their normal



operating state within one hour after the last super load has passed that point or by 6:00 a.m. whichever is sooner." I'm concerned that they'll be taking down a lot of traffic signs and things of this sort and that could cause disruption if they're not put back very quickly after the big trucks have passed.

No. 3. Is to me, as a resident of Kula, extremely important. There are five schools that this, that these trucks will pass and they talk about 75 percent of their traffic passing by these five schools. So I'm offering the following two conditions.

"That no concrete trucks, semi-trucks or dump trucks shall transit Haleakala Highway, Kula Highway and the road between Keokea and Ulupalakua between the hours of 6:30 in the morning and 8:30 a.m., and between 1:00 to 3:00 p.m. on school days only." That means if they want it, because they'll be running 40 big cement trucks in a day and that they need to avoid, perhaps going on a Saturday or Sunday when there is no school traffic or in some other time to avoid that congestion in those five schools.

Condition 4. "Within 90 days after completion of the eighth windmill, the applicant will be responsible of repairing any damaged bridges in Keokea and the Keokea to Ulupalakua Road." That's a substandard road and great damage could be done to that road and effect all the residents out at Kahikinui, Kanaio on the road if that road is damaged by all of this truck traffic.

No. 4. "That all mitigation statements and representations made in the Final EIS shall be complied with." That should be just put down as a condition.

And No. 5. "Because the owner of Ulupalakua testified that the aggregate soil shall be removed from the ranch property this is assumed to be a binding condition."

And finally, with regard to the Community Benefits Package, I'm offering two possibilities because I feel that the community benefit as written talks about them doing studies --

Chair Hiranaga: Please conclude your remarks.

Mr. Mayer: I will do that.

Chair Hiranaga: Thank you.

Mr. Mayer: Talks only about doing studies and I think what needs to be put into your conditions is the fact that they'll actually build or do something for the community. So I'm offering these two conditions. Community benefits package for DHHL Kahikinui shall go beyond the condition--conducting studies. It shall require that Auwahi will be responsible for providing either: A) Water and water pumping from their on site well; B) Extensive energy support for residents such as photo voltaic, small wind systems for battery charging; and/or C) The actual road construction within the community. And actually require these things to be done not just study them.

Chair Hiranaga: Okay, thank you very much. Questions, Commissioners? Commissioner Mardfin?

Mr. Mayer: Thank you.

Mr. Mardfin: Why did you say, "either?"

Mr. Mayer: I said --

Mr. Mardfin: --In the last one, in 6A, you said, "responsible for providing either water, energy or roads."

Mr. Mayer: Well, you'll see before C, I put, "and/or." And I was--I would love to see all three if the Commission thought that these three were comparable to the size of the investment the, amount of money the company has that all three of these would be done, I would be very much in favor of that. But at least, as of right now it only calls for studies. There's no action required, and so I'm urging you to do all three or at least as a minimum one of those or two of those. I think all three should be done because this company's gonna be earning \$16 million a year revenue for Maui Electric and I think the amount of money they're earning from this on an annual basis makes it feasible for them to provide all three for this community.

Mr. Mardfin: Thank you very much.

Chair Hiranaga: Any other questions, Commissioners? Seeing none, thank you.

Mr. Mayer: Thank you.

Chair Hiranaga: Next individual is Sumner Erdman.

Mr. Sumner Erdman: Thank you, Commissioners. Since Mr. Mayer ended on economics, I go on economics and why we're doing it. Why Ulupalakua is doing this. In the year 2000, our electricity bill was about 19 cents a kilowatt, in 2007, 33 excuse me, yeah 33 cents a kilowatt. The cattle didn't--the price for cattle didn't go up in that same percentage. Between 1999 and the year 2010, our insurance package and the majority of this being medical insurance and we all know how that's gone up, but our entire insurance package has gone up from \$114,000 to over \$400,000. I guarantee you, the price of cattle didn't raise at that same percentage rate. This is the best example, in 1980 to year 2000, in 1980 we built a mile of fence. It cost us 81 cents per foot. In 2007, we built the exact same fence over the exact same mile, same barbed wire fence, exact same fence, it cost \$3.79 per mile. If you do your calculations on 5,280 cents per mile--or 5,280 feet per mile. What you realize is a fence that cost us less than \$5,000 in 1980, cost more than \$15,000 in 2007. If you take that, that's about a 365 percent increase. The national cost for a fed steer increased 36 percent over that same 27 years. We need--if you want to see agriculture survive you have to find ways to allow agriculture to try and diversify. This is one of the ways we were trying to diversify to survive. This is about survival for us. That's survival for us keeping our job. The majority of the time what you, as Planning Commission, get to deal with somebody taking agricultural land out of agriculture and putting it into something else and you were tossed between the conflict of providing construction jobs versus agricultural jobs. The nice thing about what's before you today is you're going to provide construction jobs if you pass this and save agricultural jobs and I think that's a little better option than you've had in years past. Thank you very much.

Any questions?

Chair Hiranaga: Questions, Commissioners? Commissioner Shibuya.

Mr. Shibuya: Thank you very much, Sumner. Thank you for Pardee, also, Erdman for being outstanding community patrons here. You've also not only taken care of the ranch and sustaining jobs as well as feeding Maui, but you've actually committed to restore the west, I mean, the leeward Haleakala slopes. That is a outstanding--we had a legacy here of 1970's, I mean 1700's where we decimated and we exploited much of the native forests and then today we are worried about endangered species. We need to ensure that we bring back these forest lands to ensure that we have these endangered species, make 'em less endangered --

Chair Hiranaga: Your question, Commissioner Shibuya?

Mr. Shibuya: You've made a lot of motions, I mean, initiatives towards this. What other initiatives do you see in which we, Maui, can support in sustaining Ulupalakua Ranch? Besides Sempra, are there other initiatives that you would like the community to consider?

Mr. S. Erdman: Yeah, and actually I'll put that beyond just Ulupalakua Ranch, I'll put it to the local agriculture in general. Please ask for it. When you go buy lettuce, when you buy beef, when you buy chicken, when you buy anything, please buy locally. That's the only way farmers are gonna survive, if you demand it. Thank you.

Mr. Shibuya: Thank you.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: In reading the report carefully I saw that you planned to, once this thing is built you're gonna graze cattle right underneath the windmills sort of thing?

Mr. S. Erdman: Correct.

Mr. Mardfin: You expect to lose any--I don't mean in the sense of die, do you expect to be able graze the same number of cattle as you currently are or is this gonna decrease your ...

Mr. S. Erdman: I actually expect to be able to graze more cattle primarily because we're allowed better road access and a few other things that will be benefits of this. One of the other side benefits of windmills on ranches that most people don't think about it and seeing this is in pretty warm, hot country, is that cattle like during the middle of the day to get in the shade of the wind turbine and actually have the shade in the middle of the winter months.

Mr. Mardfin: So this will not only provide revenue for you and lower prices for the--or at least stable prices for the public but also increase your productivity?

Mr. S. Edrman: Yes, it will increase --

Mr. Mardfin: Thank you very much.

Mr. S. Erdman: Thank you.

Chair Hiranaga: Commissioner Sablas?

Ms. Sablas: Aloha, Mr. Sumner.

Mr. S. Erdman: How are you?

Ms. Sablas: Thank you again for all you do for our community. To follow up on Commissioner Shibuya's question about other options, has geothermal been considered as energy --

Mr. S. Erdman: Yes, geothermal is being considered.

Ms. Sablas: --on your --

Mr. S. Erdman: There is a company looking at geothermal. But before anybody gets all excited about that, I'd like to point out that currently the County of Maui does not have laws in place to allow geothermal. That's being worked on. Two, nobody's proven that there is a geothermal--a viable geothermal source on the island of Maui. That's right now all subject to a lot of studies and everything else and we have a lot of cultural and other issues that will also need to be dealt with, with geothermal. So it's ongoing and we have looked at. I think there's, it's a little premature to get in that discussion.

Ms. Sablas: Thank you.

Mr. S. Erdman: Thank you.

Chair Hiranaga: Any other questions, Commissioners? Seeing none, thank you. Next individual, Paige DePonte.

Ms. Paige DePonte: Hi, I have a ranch in Kanaio which is between Ulupalakua and Kahikinui and I'm a new face somewhat out there. My husband and I were married for 30 years. He passed away in March of this year. He was kinda of rugged, rustic cowboy and one of his main goals was to maintain the land which is a good percentage of the Kanaio community. We're one of the larger landowners out there as free range and to raise our cattle as pure, natural, organic beef and we've done a good job of, of that. When my husband got sick, I came back to take a full-time hands on position at taking the ranch and as Sumner mentioned, finding alternative ways to take our small little farm and, you know, grow with the community and offer, you know, a better beef product. We are small again, we have about a 130 head of cattle. My husband has been out there for 50 years. In the last year, I've made a lot of changes as far as we've created a direct marketing box beef offering to the public which we do every month at a really good price and that's gone really well. The USDA and the State has backed me up with helping us with agricultural loans to increase that. We also have a direct market, farmers' stand which we opened right on Piilani Highway, Sunday. It's been in the works since 2008. It's taken us a while where we sell our beef directly to the

community, again, at a really good price. We can also help people with EBT because the USDA approved us to do that. We also sell beef burgers there. What that's done is help our ranch stay on its feet. We wanna stay out there. We wanna continue to be farmers. We are little. We're not as big as Ulupalakua, but we've been neighbors for a long time and you know, overall I wanna say that I'm very supportive of any alternatives of sustainable development. My background just to let you know a little bit has been in conservation. I've worked with Conservation International for 15 years. I did two books on conserving biodiverse hot spots around the world, 39 countries to be exact. I've won awards for my work. I was a documentary film maker. I also do film making in the feature film industry in Los Angeles. That's been on hold for the last year and a half. So I really do have a lot of knowledge on what can happen when you have a great idea and take it to an indigenous culture such as, you know, I consider Kanaio and Kahikinui where a lot of indigenous people have come from. One time there were thousands of people living in Kanaio and they wanted what most indigenous cultures want is they want what the western civilization can give them. And I think that's great. I think it's a good thing if it's done a sustainable manner.

Chair Hiranaga: Please conclude your comments.

Ms. DePonte: I have a few concerns because I am right in the middle of where this construction is gonna be so if you'll just bear with me for one minute. Again, I'm all for it. I have not had any, one of my concerns is notification except for a month ago about these meetings and as one of the bigger landowners, it would have been nice to have been included to some of these meetings. My direct market stand is right on the highway. I'm concerned that these trucks are going to really cause a huge impact on my ranch in particular. Have there been any alternative routes like maybe barging in these giant 40-foot wide trucks to bring another road up from below?

Chair Hiranaga: Okay, you need to conclude very quickly.

Ms. DePonte: Okay, safety is another thing. I have noticed that the trucks that have been coming back and forth over the last six months, I had the Highway Division come out and put some sensors up to find out what speed they're going because they are flying through our, directly in front --

Chair Hiranaga: Okay, thank you very much.

Ms. DePonte: -- 15 mile an hour zone.

Chair Hiranaga: Thank you very much.

Ms. DePonte: There's a lot of --

Chair Hiranaga: Questions, Commissioners? Seeing none, thank you. Next individual is Ryan Wendt.

Mr. Ryan Wendt: Good morning, I'm Ryan Wendt. I'm an employee of Ulupalakua Ranch. I'm very in favor for the wind farm so we can keep our lifestyle. Ranching, farming is very hard in Hawaii. I've grown up in the rural community my whole life, and my dad's a taro farmer in Wailua and it's very, very important to, to have this so we can keep the culture going, keep the quality of life going

for our kids. It's, it's very, it's very huge. I speak for the cowboys because there's not very many places you can do this kind of work and we are all very so passionate about it. If it doesn't happen there could be some dramatic changes because it's very hard to raise cattle in Hawaii. You know, I worked on the mainland on some ranches there and it's a lot easier there because you don't have the ocean. So we're really dependent on the land, you know, here. I mean, we're, we're all land managers. If we don't have grass, we don't have cattle. So thank you for your time.

Chair Hiranaga: Questions Commissioners? Commissioner Mardfin?

Mr. Mardfin: How many cowboys are there at Ulupalakua Ranch?

Mr. Wendt: Currently there is eight.

Mr. Mardfin: Thank you.

Chair Hiranaga: Any other questions, Commissioners? Seeing none, thank you.

Mr. Wendt: Thank you.

Chair Hiranaga: Pardee Erdman.

Mr. Pardee Erdman: I'm concerned about reputation --

Chair Hiranaga: Please identify yourself.

Mr. P. Erdman: Pardee Erdman from Ulupalakua Ranch.

Chair Hiranaga: Thank you.

Mr. P. Erdman: --but I'm really concerned about the reputation of Auwahi. As many of you may know, some of you may not, this is the second attempt to put a wind farm out in Auwahi. The first was done by Shell Wind Energy. They were the ones that really discovered the resource that everybody thought you should go up the mountain like it was done on this side and Shell was the one that discovered to go down. So what happened to Shell? They left. They left saying they have done business in Louisiana and every place else and they found Hawaii one of the hardest places they've ever done to do business and first because of the regulations and because of, let us say, some of the corruption that was taking place. I don't why Sempra undertook the job because for what they've had to go through, I would have walked away long ago. And I just hope that ...(inaudible)... where Sempra doesn't walk away and again, walk away saying that Hawaii's too hard to do business in. That's my only comment.

Chair Hiranaga: Questions, Commissioners? Seeing none -- Commissioner Mardfin?

Mr. Mardfin: You mentioned corruption?

Mr. P. Erdman: Yes.

Mr. Mardfin: Can you explain what you mean by that?

Mr. P. Erdman: No, I won't but I can tell you --

Mr. Mardfin: Okay.

Mr. P. Erdman: --personally what went on with Shell was really so unethical that they walked away saying that they thought Louisiana was bad until they got to Hawaii.

Mr. Mardfin: Thank you very much.

Mr. P. Erdman: And we don't need too much more.

Chair Hiranaga: Any other questions, Commissioners? Seeing none, thank you. Next individual Ken Hence, Ken Hertz?

Mr. Ken Hertz: I am not very good in public. My name is Ken Hertz. I'm coming in and representing really the family without any preparation. I got a call, got my voicemail about 8:40 and ...(inaudible)... breakfast, I listened to it. So, full unprepared. First of all, I've heard from a number of people, I think something I wanna share about the--first of all, I appreciate the act of democracy in this, in having this forum. Chance to come together as neighbors and discuss these things and how they have an impact on each of us pro and con. Some people--I've heard quite a number of people wished that this had been arranged at a different hour. Some people have walked away because it was too crowded outside. I couldn't hear a word going out because I could only stand outside. So many people who have said, we're working at this hour, we can't make it. And then this room would certainly not be able to contain everyone who will be here. So I just want you to be aware of. This is probably something that you should have had arranged in the evening. Perhaps you can have a second meeting to follow up.

Besides that, basically I want to speak about the impact on the environment question. Someone has voiced outside, who hasn't a voice here really concern about the radiation. I don't know where that stands. From, you know, what's being discussed I've understood is, one is, a matter of actually just having these on Maui. Maui is above all else a place that depends on tourists and these are unsightly.

Now, the other thing is that in the long run, well understand, the literature I read said that once this wind farm retires in a sense, 20, 25 years there's no plan for a clean up or doing anything after that. And we've heard reports recently in papers about other wind farms and on islands which are in disarray, falling apart. There's no plan to clean them up. It was never arranged. Those are the environmental as far as I see, and I do see the positive things for employment and how it's going to help businesses, some businesses here.

But economically too, the question becomes ultimately when you add up all the costs including if there's eventually clean up including what originally cost will be for all the cable and so and where those sources may be coming from. It's a question of the economics of it and in the end has more money been put into it and increase of cost put onto a burden of other people that, that this farm

if it were put within the public realm could not possibly hope to have a chance of being created because it's non-sustainable, self-sustainable. And I think it's serious consideration now because of the economic situation we're in and how difficult people are having as it is to pay for what they already have to pay and so if this is actually the net ...(inaudible)... increase the cost for people out of their pocket immediately, it's I think something that has to be paid attention to and I do appreciate your time, the forum and best wishes to all.

Chair Hiranaga: Questions, Commissioners? Ken, Commissioners wanna ask you questions?  
Jack Freitas, Commissioner Freitas?

Mr. Freitas: Are you against wind energy?

Mr. Hertz: As far as wind energy is concerned, it's yet to be proven to pay for itself. Therefore, I'm someone who believes that if you're doing that, and it's done as a matter of public policy generally I'm not for it if it cannot sustain itself. I'm not against it as an idea. Alternative energy to me is a good thing. The question becomes how, when is the time, how do you do it, how do you proceed to it, do you do step like fashion? So to say that I'd be against wind energy would be wrong. To say that I'm against alternate energy would be wrong. I have as much desire and hope probably as anyone that we could alleviate the need to oil, for oil and for the cost or any number of dimensions, but in the term of the real practical concerns that we have in this present moment. The costs, it doesn't make sense at the stage it's developed and that's basically what I'm presenting at this. And again, I come unprepared and I'm not a terribly sophisticated person to be honest and as say, in public I'm shy.

Mr. Freitas: Follow up.

Chair Hiranaga: Commissioner Freitas?

Mr. Freitas: Do you realize that the studies have proven in ten years that fossil fuels will double in cost?

Mr. Hertz: I think none of us really know that answer. I think there are too many unpredictables. We saw how quickly that changed. I again, I'm not interested in debate. I don't wish to make anyone look foolish or stupid so I'm gonna just be quiet on that point. Thank you.

Chair Hiranaga: Commissioner Shibuya?

Mr. Shibuya: Mr. Heinz [sic] you mentioned something about radiation. Can you explain what that radiation that you're talking about? Is this nuclear radiation? It's not solar radiation?

Mr. Hertz: No, I think, I think what again, as I probably didn't speak clearly or well enough about in addition to being shy can sometimes end up mumbling. That someone outside represents a core of people of not being able to show up because of the scheduled time, impossible for them. And this one person took time away from work, drove an extra hour to get down here. He wanted to get information. He hoped that he could sit and get information in the room but there was no room for him to listen to any of this discussion. His concern about, himself, I representing him not--and he



lives in the area so I felt justified to do that even though was with the, but the idea of what do you call it, ...(inaudible)... I can be sometimes. There's another form of energy being transmitted in this through the antenna. That is, that in the same as we have in the microwave and that's -- their concern for themselves was about that. They'd like to have an idea of the impact, that form of energy is gonna have there.

Mr. Shibuya: So you're talking about microwave?

Mr. Hertz: Yes.

Mr. Shibuya: Not radiation.

Mr. Hertz: Microwaves versus radiation.

Mr. Shibuya: It's merely a control aspect of it.

Mr. Hertz: Oh, I don't--I'm just saying that that's something they were concerned about. I would say under that category it follows suit what I'm speaking about is the, is the unheard voices because of the scheduled time. I know --.

Mr. Shibuya: Do you use a cell phone?

Chair Hiranaga: Commissioner Shibuya, please let the testifier complete his --

Mr. Shibuya: Do you use a cell phone?

Chair Hiranaga: Mr. Shibuya, please allow the testifier to complete his statement.

Mr. Hertz: Thank you. It goes under the suit of the idea of people because the hour of this, this was set, and it would end up being the size of the room, people's voices won't be able to be heard and that was the category that I was under. I'm having to represent people --

Chair Hiranaga: We understand that. Thank you.

Mr. Hertz: Thank you.

Mr. Shibuya: Do you have a cell phone and do you use a cell phone?

Chair Hiranaga: Commissioner Shibuya, is this related to the agenda item?

Mr. Shibuya: Yes, because it's talking about radiation. He mentioned microwave.

Mr. Hertz: Microwave, yeah. For myself, when I came in it wasn't an issue for me personally and I'm not representing anyone who is making a position on that.

Mr. Shibuya: I just wanna clarify what is the radiation that you're talking about, microwave or cell

phone?

Mr. Hertz: Well, again, I'm not sure what your purpose is. I'm not claiming to be a representative for this, for that particular issue. Under that issue really, what I was speaking, addressing, was that there were people who aren't heard because of the time this has been scheduled for and there's significant number of voices that won't because of the scheduled time.

Chair Hiranaga: All right, understood. Thank you. Any other questions, Commissioners? Mr. Hertz, Mr. Hertz, more questions. Commissioner Lay has a question.

Mr. Lay: I have two questions. First, where do you reside on Maui?

Mr. Hertz: I reside, I have sort of a mixed residence, but I do live on, I live in both on--in Wailuku and in Ulupalakua. My family, mother, resides in Ulupalakua and again, I was given in a last moment a call to represent that.

Chair Hiranaga: Understood. Your next question.

Mr. Lay: These people that you say you're testifying in behalf of, do they live in that area?

Mr. Hertz: Yes. They're gonna, they're gonna have major impact. They're pretty close to both the trail that's being set up for it and for the location.

Chair Hiranaga: Any other questions, Commissioners? Seeing none, thank you.

Mr. Hertz: Thank you.

Chair Hiranaga: Next testifier is Lucienne de Naie. Lucienne de Naie.

Ms. Lucienne de Naie: Aloha, Commission Members. My name is Lucienne de Naie. I'm passing around a little map to you folks. I'm sorry I don't have copies of it, but what you should just look at is that big red area, it's the Ahupua`a of Ka`eo. And it's one of the places that the access road is going to pass along. And as some of you may know, I did a lot of research, authored, coauthored this book, Project Ka`eo about that particular region and so I read a lot of archaeological reports about it. I'm in total support of this project. It's a wonderful project. They did a very good job on their archaeological inventory survey.

The reason I'm passing out this map is because there is one oversight in that archaeological survey that I hope that the Commission and the Erdmans and their consultants can work with and that it's understandable because involves some cultural sites that are on, not on Ulupalakua Ranch land but on Makena Resort land. And what it involves is a boundary wall for the Ahupua`a of Ka`eo. Now we don't have a lot of intact boundary walls for ahupua`as because, you know, patterns have changed, but this one is, is quite something. I have seen it myself when I was taken to the Seibu lands on a tour about eight years ago. And it--what I'm passing around is a map that was done by Theresa Donham, who is a very respected archaeological--she a Masters in Archaeology. She now works for SHPDA, but she is the coauthor of this study and she did all the maps. And what she did

is plot the sites that had been discovered in various archaeological surveys along Mahele area era boundary lines and that is very telling about, you know, how some of these significance that otherwise are just looked at as cattle walls.

Now this site which was called Makena Site 5 is regarded as a cattle wall in the Archaeological Inventory Survey for the, the wind farm. It will be impacted so it appears by the delivery road that comes up from Makena, the Papaka Road. And my request is that the applicant would work with Maui Cultural Lands which is an organization that is also aware of this wall and see what can be done to mitigate the impacts. First, it should not be called a cattle wall. It should be called an ahupua`a boundary wall. It does match the boundary lines and it really needs to be recognized for what it is even if another portion of it is destroyed, it should be properly recorded and I'm sure the Erdmans and their consultants would wanna do a good job because they've done such a good job on the rest of the Archaeological Survey.

So I just wanna say that, I think that this a good project. I think wind is an important part of our future. I think these folks are really trying to do it right as Mr. Erdman said. They've spent a lot of money trying to please everybody. So this is my one request. Your purview allows you to weigh in on cultural matters under SMA requirements and if there could be some consultation with Maui Cultural Lands on this particular site, I very much appreciate it. Thank you.

Chair Hiranaga: Thank you. Questions, Commissioners? Commissioner Wakida?

Ms. Wakida: Thank you, Lucienne. I didn't catch, what exactly do you feel will be the impact on the boundary wall?

Ms. de Naie: Well, right now, it's unclear, but I've read the AIS and the EIS and appears that all, but one of the eight sites in Makena Resort that have been recorded are in the impact zone and it just--it puts them in the column of they're gonna be impacted. It doesn't say whether they're gonna be completely destroyed or not. One site is not gonna--one site is outside of the, the impact zone. But this particular site is listed as in the impact zone. There's no real discussion of it. I can understand because it's not on their land that, you know, they don't get into a deep discussion of it. But the fact is this site was actually already recorded twice before by Makena Resort and so now it's been given yet a third number in their study so it's confusing for historians and, it's just, it's just one little thing to make better in an otherwise, excellent, excellent study. Does that, does that answer your question?

Ms. Wakida: Well, not entirely but my question is, I'll ask the applicant what exactly they mean by the impact.

Ms. de Naie: Well, it could be completely destroyed that section of the wall which is over a 100 feet long.

Ms. Wakida: Thank you.

Ms. de Naie: And the wall does continue by the way, continues up the ahupua`a. It's quite visible. It's visible on Google Earth. It's a, it's a major wall, very wide, very high, very thick.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: I have two questions. One, is this on the land that's--you said it's in the impact zone. Is it on the land that they're gonna be using for the windmills?

Ms. de Naie: No, it's only on the--it's on Makena Resort land. It's right above the Makena Resort golf course. It's not land that's owned by Ulupalakua Ranch, but the road passes through there. And so the road, the delivery road that comes up from Makena Alanui will pass by where this wall is. If it has to be widened, it's unclear how much of the wall will be impacted.

Mr. Mardfin: So you're concerned about that during the construction phase of this.

Ms. de Naie: Yes, yes.

Mr. Mardfin: That, that it not be damaged.

Ms. de Naie: Yes, yes. It already has had a portion impacted when the golf course went in. A large portion was interrupted.

Mr. Mardfin: Have you spoken with the, prior to today, have you spoken with these guys about making sure that that is protected?

Ms. de Naie: I apologize. I have not done that. It took a lot of research to realize what was what because it was given a different number and I really wanted to have my ducks in a row. So I just finished that research last week and so, you know, apologies to the Erdmans. We should talk about this, but if they'd be willing to consult with Maui Cultural Lands, Daniel Kanahele, their South Maui representative is very aware of this wall and that would just be --

Mr. Mardfin: Thank you, thank you very much for bringing this to our attention.

Ms. de Naie: Yeah.

Chair Hiranaga: Commissioner Shibuya?

Mr. Shibuya: To give us historical perspective in terms of time, Lucienne, can you tell me, it's, you know, it's listed as cattle wall. You say, cattle wall, well that gives me a perspective of about after 1700's. Is this wall that you're talking about Ka`eo Ahupua`a boundary? Now that implies before white man, before the westerner --

Ms. de Naie: That's a good question. I do not believe any dating has been done. It's hard to date to walls. But the construction techniques are of the traditional variety where it's very wide, core filled, so forth and so on and the length of the extent and it defines an ahupua`a that was granted to Mahoe in the Mahele in the 1840's and--but it's very likely that Mr. Mahoe and his predecessors are just claiming the land form that was there maybe since the 1400's, yeah. Whether the wall was constructed when the, when the cattle era came in or whether it was constructed to define the boundaries it still is an important historical feature.

Mr. Shibuya: Thank you.

Chair Hiranaga: Any other questions, Commissioners? Seeing none, thank you.

Ms. de Naie: Thank you.

Chair Hiranaga: Next individual is Doug McLeod.

Mr. Doug McLeod: Commissioners, hi, I'll try to be brief. I'm Doug McLeod, Energy Commissioner for the County. Just a couple of quick points. First, in the discussions today, I notice some people have, I guess raised the general question is this a valid energy project? Is this gonna increase people's costs? And just in a very general sense, I wanted to be clear that we support this project. The Mayor's Office supports this project. This is an excellent location for wind power from an energy perspective. Average wind speed at this site excellent for wind power. And so, you know, when you talk about, is this gonna help Maui? Our answer would be yes. This is gonna be a piece of the puzzle. But when we look at the price the utility is buying the power at here, the price is less than or equal to utilities avoided cost. So what that means is as long as the utility is buying the power for less than their avoided cost, they're not really gonna drive up our cost by adding power like this. So again, does this project make sense? Yes, it does. Yes, we do support it.

Then just a final note on the community benefits. I know that some people have suggested that we're not pinning down the company enough on exactly what the community benefits are whether it should be roads, whether it should be water, and I just wanna be clear that in this process what we found a couple times is that it has not been helpful for experts to be telling the people in Kahikinui what they need or what they want. And we went into this, "we" being, you know, the Mayor's Office thinking that they wanted the water. And really as we met with Aimoku, with Mo, with Tito, with Donna, with these people, we've learned that really they did want the roads and more importantly they were comfortable with specifying a process here. They've been very involved with DHHL. They've got a lot of very specific ideas on how this road work is gonna be done. And I just wanted to be clear that we made a conscious decision not to ask for a dollar figure because of the input we got from the people, the homesteaders about how they wanted this to work out. Thank you. That was all.

Chair Hiranaga: Questions, Commissioners? Commissioner Mardfin?

Mr. Mardfin: I understand the road bit, and earlier testimony said they liked what was done in the road bit. I understand most of them are off the grid so electricity may or may not turn out to be an issue, but the water thing, could you explain what--they didn't want potable water provided to them?

Mr. McLeod: I wouldn't say, didn't want. I'd say that in terms of prioritizing, we went to the community at Kahikinui thinking that the water was a higher priority item and, and we had put some initial draft language that that was written that way. But the actual input, I think we had three meetings with various homesteaders and also with DHHL and again, and again, they came back. And frankly they showed us their own planning within the community that they had done and it was pretty specific there in writing that roads were higher priority. The company, Sempra has indicated that, you know, they didn't expect to be able to fully fund both of those options. But that was, that

was sort of the thinking is that there was a priority here of going towards the roads as something that would be a genuine community benefit that people would, you know, help, help their day to day life.

Mr. Mardfin: Do you know what the population of Kahikinui is?

Mr. McLeod: I seem to remember the number of lots was what, forty something. So no, actually I don't know the exact population. Seventy-five lots I'm told by some wise people in the audience.

Mr. Mardfin: Any, any idea how many people?

Chair Hiranaga: We're not querying the general public, Commissioner Mardfin.

Mr. Mardfin: I'm asking him.

Chair Hiranaga: You seem to be looking --

Mr. Mardfin: No, I'm asking him.

Mr. McLeod: I believe it's under a 100, but I don't know.

Mr. Mardfin: Under a 100 people because the census shows 5.

Mr. McLeod: I know I've met with more than five people and so I'm pretty sure there's, there's more than five, but I don't claim to know beyond that.

Mr. Mardfin: Seventy-five lots and less than a 100 people. Thank you.

Chair Hiranaga: Any other questions, Commissioners? Seeing none, thank you. Is there anyone else that wishes to provide testimony on any agenda item, please come forward at this time? Please identify yourself.

Mr. Henry Kahula: My name is Henry Kahula, Jr. I'm a, I'm a lessee of Kahikinui and I wanted to put across that --the Kahikinui area right now, see all of --the goal for that area there was to go up to reforest that area. See that was one of the reasons why they opened that. And ultimately to become more of a self-sufficient type of community. And with the, with the help of the Sempra people we're moving into the future together see. And what we're looking at is continuing to build in that area, but we not going be able to do it all in this generation, but with the help of the Sempra group that have committed to putting the roads. With the road is one of the first things that we need to do in order to get people on the property. And for the now the people that live on the property, they're, they're going through a hard time out there on that road. But Sempra has committed to taking care of the, the road up to the top. And this is what we're looking at, that's why we totally support--well, I totally support the program and--see what Kahikinui looks like today is what Wailea used to look like before it became what it is today. So what I'm saying is that there is a future for Kahikinui and this is only the door that's gonna open the way to continue to give us the opportunity to move ahead to build our schools and to grow our community in Kahikinui because we need to

get people on the property in order to get more input, to get more ideas and to get more things done. And the more minds we have, the more things we can do. Thank you very much.

Chair Hiranaga: Questions, Commissioners? Commissioner Mardfin?

Mr. Mardfin: Mr. Kahula?

Mr. Kahula: Yes.

Mr. Mardfin: First, I wanna thank you for coming here and testifying. Forty-eight years ago, your father gave me my first job in Hawaii. I worked for him at a big service station. He's a wonderful man. Your--I asked the previous person how many people lived in Kahikinui. Do you have an answer to that?

Mr. Kahula: Well, right now we have about ten families up there. But in order to get more, we need to --that's why the priority is the road.

Mr. Mardfin: So when you say ten families, how many people would you guess that would be?

Mr. Kahula: I would say about 10 x 3 maybe 30, 40 people.

Mr. Mardfin: And what do you envision the number of people that could live up would be in the future if things go well?

Mr. Kahula: Well, see the properties up there are marked off at 10 to 20 acres per lot. So what we were looking at in the beginning was pastoral lots, but because at the time of the signing of the leases, it was kind of a dry area up there and they came to the conclusion it was going to take 30 acres per head to raise cattle. And so what they did, they said, well, we're going to make it into a kuleana project which gave the opportunity to the people to either farm, which is one of the things that we're looking at because in reforesting the area, it's gonna be open for farming. And the other thing is that in being a kuleana project which is they can do anything that they want with the project. They can bring more family members onto the property and still be able to raise livestock and farm the area up there also.

Mr. Mardfin: You think maybe two, three-hundred people ultimately or?

Mr. Kahula: Say that again.

Mr. Mardfin: Do you think maybe two or three hundred people ultimately?

Mr. Kahula: Ultimately, yes. But that would, that would be maybe the next three generations, not right now. For this generation here, lucky if we can, you know, finish the road.

Mr. Mardfin: Thank you very much, sir.

Mr. Kahula: You're welcome.

Mr. Mardfin: I appreciate it.

Chair Hiranaga: Any other questions? Seeing none, thank you.

Mr. Kahula: Thank you.

Chair Hiranaga: Anyone else wishes to provide testimony on any agenda item, please come forward and identify yourself?

Ms. Lanny Hokoana-English: Aloha, I'm Lanny Hokoana-English. I come wearing two hats. First, I wanna say I am in support of the project up at Ulupalakua as a resident of Maui County. We need to move into sustainable energy alternatives. I am also a lessee at Kahikinui and I am unfortunately unable to be a full-time resident. My biggest barrier is transportation because my lot is--it takes me about an hour to get up there. We tried to start construction, but accessibility, road is--makes it impossible. So I am in support of the project and I look forward to the Commission's approval.

Chair Hiranaga: Thank you. Questions, Commissioners? Seeing none, anyone else wishes to provide testimony on any agenda item at this time please come forward and identify yourself.

Ms. Patricia Nishiyama: Aloha, my name is Patricia Nishiyama a.k.a Aunty Patty Nishiyama. Aloha mai. Here I have with me my kupuna, her name is Leilani Chock, she will do a testimony for Na Kupuna O Maui.

Ms. Leilani Chock: You folks get my name already.

Chair Hiranaga: Please, please state it for the record.

Ms. Chock: Okay, Leilani Chock, thank you. I was back there sitting there and my goodness what's running through my mind, you know, all the testimonies. And it's wonderful to hear, you know, people especially people that live there at Kahikinui, you know, and all that, all they lifestyle. There is a hardship with that road as I was listening and, and although keeps jumping all kind things like windmill, you know, what they gonna benefit and all that? We need to take chance on moving forward to have better things in life. To me, life is a balance you need that. You no moa the balance auwe fall to right or to the left and no good. So, to make everything right, you need that balance and for the good, you know for the good. And to me, I'm quite sure a lot of people in here sometimes when you do business, you don't know if that's, you know, gonna turn out right or they're a bunch of crooks or whatever, you know? I mean, a I know this not Hollywood, but sometimes it's part of our, our daily life. I'm speaking from just common knowledge. I didn't graduate high school. I'm from Waianae, Oahu and it's a big thing too, for myself to support this project, and I like to see good come out of it for everyone. So, don't let the--don't use that overturn pohaku, you know, you need to turn 'em all over, huli the buggah and you going get good ...(inaudible)... So all I'm saying. That's all I get for say.

Chair Hiranaga: Thank you. Questions, Commissioners? Seeing none, thank you.

Ms. Chock: You're welcome.



Chair Hiranaga: Anyone else wishes to provide testimony at this time regarding any agenda item, please come forward and identify yourself.

Unidentified Speaker: Is it okay if I say something else?

Chair Hiranaga: No, it is not.

Unidentified Speaker: It isn't, okay.

Ms. Irene Bowie: Good morning, Chair and Commissioners. I'm Irene Bowie, Maui Tomorrow Foundation and Maui Tomorrow Foundation does support the Auwahi Wind Farm. As I've testified here before for this project, the one thing we would ask Ulupalakua Ranch and Sempra is to work with the American Bird Conservancy on their Aviation [sic] Protection plan which is a utility specific document to reduce and prevent avian mortality caused by electrocution and collisions with utility structures. The American Bird Conservancy said earlier this year that the build out of wind energy proposed by the Federal Government to meet a Department of Energy target of generating 20 percent of nation's electricity through wind power is expected to kill at least 1 million birds per year by 2030 and probably significantly more. We know that Kaheawa has had more incidents than they initially thought was going to happen. So I think it's really important to stress the best management practices that we possibly can and work with American Bird Conservancy. In the plan, it does say that they'd be working with community groups and NGOs. So I'd just really would like to stress that how important that is to be a truly sustainable source of energy. Wind power needs to be bird smart to use best technology and management practices to avoid and minimize harm to birds and bats as well such as burying transmission lines in high risk areas. Now that was ruled out for the Auwahi project. So, the Avian Power Line Interaction Committee Standards for above ground transmission lines are important and these include construction design standards, permit compliance, employee training is important and in order to reduce the mortality. So, you know, we've said it before. I hope that we can just take that one step further instead of just getting a sign off from the Fish and Wildlife, really look to an NGO that's working on this, recognizing what's happening around the world as more and more large wind farms come, come in and, and protect those endangered species. Thank you.

Chair Hiranaga: Questions, Commissioners? Commissioner Mardfin.

Mr. Mardfin: Has there been attempt to work with the applicant on these issues?

Ms. Bowie: I don't know. I, I haven't reached out. I'd like to reach out at this time and ask if there could be some conversations. I know some folks in Honolulu that are with the American Bird Conservancy that have real concerns and I just, you know, would like to bring it up.

Mr. Mardfin: I hope they'll do that because this applicant has shown time and time again that they're open to doing things in the very best possible way.

Ms. Bowie: Exactly.

Mr. Mardfin: So I would imagine you'd get--be able to get some at least compromise.

Ms. Bowie: Yeah. And I think as, you know, as it comes in with so many windfarms now that, that there are more problems than were initially thought, it's more important than ever. Thank you.

Chair Hiranaga: Any other questions, Commissioners?

This concludes the testimony received at the beginning of the meeting.

Chair Hiranaga: I'd like to open the public hearing at this time. We have a couple individuals signed up. Bud Pikrone. Please identify yourself and limit your comments to three minutes.

Mr. Bud Pikrone: Thank you, Chair. Aloha, Chair, Commission Members. My name is Bud Pikrone. I'm here representing the Wailea Community Association and Wailea Resort Association. We are very much in favor of alternative energy and encourage it quite a bit in our resort. And the representatives from this project have been and continue to be very willing to have conversations with our community and we appreciate that because we believe there's still some significant impact that this will have on the resort or could have on the resort.

Our recent discussions had indicated that they are now looking at eight, as you heard, eight total days for the super loads. Approximately one per week which is much better than the original plan. This will entail seven trucks for each of those days carrying the pieces to construct on unit per week. We had asked them, our board had asked them to run those trucks between 8:00 a.m. and 8:00 p.m., it was our recommendation rather than 10:00 p.m. to 10:00 a.m. because of the impact it would have on the community when it comes on Ike Road, and we have some of the neighbors who live there are very close to that road as well as the resort properties throughout there and as we hear almost constantly through the resort the concrete trucks that come down to service some of the other homes being built in Makena and other locations, they can be pretty loud on that steep road and it will resonate through the evening. It seems minor, but remember this is a resort that supports the Maui community as a whole and so anything negative would not have a very good impact. During this time, we did talk about, and you did hear them say that they would run between 7:00 and 10:00 p.m., and we believe that that is a pretty good compromise that they would run those trucks at that time because 10:00 p.m., we pretty much shut down. So--and that takes into account the shift changes for the hotels. We were also told that the traffic light at the bottom of Ike on the north side will be removed during that time and replaced when the days run is completed, and police would be stationed throughout the area and escorting the trucks to help minimize any impact on traffic. We anticipate getting a complete traffic plan indicating how they plan on handling that in the future. It's something we feel is important and we need to finalize.

It was also noted that because they are now utilizing possibly an anchoring system, and we hope that that gets finalized that's a great alternative to reduce the number of loads of the concrete trucks. Any time you can reduce from 40 down to 15 that's gonna have less impact on the community. There was also discussion of possibly running those -- a split run with those, running half of those Upcountry route and half through the Wailea/Makena route. This has not been finalized either. I believe they're still in discussions. They mentioned using a water source in Makena--

Ms. Takayama-Corden: Three minutes.

Mr. Pikrone: --I'm just about completed here. Makena property to eliminate need of trucking water in from Kihei, that's great. And we've had these discussions with the company many months and look at all options including the alternative routes or building roads and the above scenario appears to be the most reasonable solution so far. However, we have asked that the information be in writing and we have not received these assurances to date. Thank you.

Chair Hiranaga: Questions, Commissioners? Seeing none, thank you.

Mr. Pikrone: Thank you.

Chair Hiranaga: Thomas Stansberry. He spoke earlier. Anyone else wishes to provide testimony at this time, please come forward regarding this agenda item?

Ms. Susan Olmsted: My name is Susan Olmsted and I live in the area where the -- I live below Ulupalakua Ranch down the 16-mile marker road at the very bottom of that. So, I am for the project. I think it's gonna be a good thing for all of us. And here's my question, what are the community benefits, and who receives them, and how do I sign up to get them because I would like some to make sure I'm included in that package?

Chair Hiranaga: Questions, Commissioners? Seeing none, thank you. Anyone else wishes to provide testimony at this time regarding this agenda item, please come forward? Seeing none, the public hearing is now closed. I'll open the floor to Commissioners for questions or for questions. Commissioner Mardfin?

Mr. Mardfin: I have a number of items but I'll try to limit it first one at a time, give other people a chance.

Chair Hiranaga: Thank you.

Mr. Mardfin: On Page 39 to 40 of this report that we got at the bottom of the page. Ann, maybe it might be that the--well, I don't know, I would guess that the--yes, I think Leilani might be in a better position to answer this. The very bottom of Page 40 it says, "the final approved BTP developed by Pacific Legacy and approved by SHPD and the Burial Council," then it says, "(a Burial Council to be reviewed and possibly approved by Burial Council on October 27, 2011)." Was that meeting held and what was the result?

Ms. Pulmano: Yes, that meeting was held and they actually did approve the Burial Treatment Plan. It does have to go back before the Council, November 23<sup>rd</sup> I think it's the day before Thanksgiving just for a final review.

Chair Hiranaga: Commissioner Shibuya?

Mr. Shibuya: Leilani, can you clarify this for me. I believe the MET tower that you mentioned in your briefing, MET means Meteorological Tower is it not?

Ms. Pulmano: That's correct. Sorry about that.

Mr. Shibuya: Okay, I just wanted it clear because I saw some funny looking eyes around the table here and so I just wanted to clear that up, and you're now doing it temporarily because you're not testing the efficiency of these turbines?

Ms. Pulmano: I'm not exactly sure why the reasoning is. I just know that it's one of the design alternatives that's allowed either these two temporary MET towers or the permanent MET tower.

Mr. Shibuya: Yeah, I would think that at least one would be permanent, but it's their call.

Ms. Pulmano: You're smarter than I on that.

Chair Hiranaga: Commissioner Wakida?

Ms. Wakida: Leilani, I'm sure you heard Ms. de Naie testify about the boundary walls that she's concerned about and the impact area? Could you respond to that?

Ms. Pulmano: Sure. I actually had a moment to talk to Paul Cleghorn, our archaeologist on the project, and we did identify that as a site and it seems to be that that site is already in or--I'm sorry, there is an existing road within and in the vicinity of the site so there will--we think that there'll be no impacts to that. But in any case, the applicant has been more than willing to meet with people. So we, of course, would like to meet with Lucienne de Naie to make sure we consult with them.

Ms. Wakida: Thank you.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: On Page 42 of your report, 42 and 43, it deals with water. And you outline seven different options. Have any of those been narrowed down or eliminated or are they still up in the air or what?

Ms. Pulmano: Actually, the applicant is still moving forward with drilling that test well.

Mr. Mardfin: Is that Option 5?

Ms. Pulmano: Yes, that's Option 5, thank you. And once that test well is determined to be proven out, then we can move forward with that. Otherwise, I think the next best option would be getting water from the base of--the base of Papaka Road at Makena Resort. That's--a lot of it has to do with reducing water truck trips within the highway system.

Mr. Mardfin: Is that Option 2?

Ms. Pulmano: Perhaps Option 3, the brackish water wells and then Option 2, yes.

Chair Hiranaga: Commissioner Lay, you have your hand up?

Mr. Lay: Yes, thank you for noticing Chairman. I have a question pertaining to the power lines that

will be running over the Piilani Highway. We had someone come in last--two weeks ago and with their power lines they went underground and they had to actually add two poles to this area where it went into the ground and where it came out. What you guys are showing is it's--they're projected to be 200 feet off of each side of road where your power lines will go underground, right? What's the maximum distance ordinarily between two poles that you can go?

Ms. Pulmano: I just got this information the other day and the maximum distance between the 60-foot poles would be about 400 feet apart. Typically though it will be 300 to 350 feet apart. And you're right about, about that, once you go underground they'll have to have, they call it "dead end structures," and two poles to then take it underground on each side.

Mr. Lay: Okay, with this power line -- with this power lines, there's gonna have to be a concrete jacket around it?

Ms. Pulmano: That's a really good question. I know just from MECO standards that they require that. Because this is a private utility so to say, not really a utility, but a private entity, I'm not sure if a concrete jacket lining is gonna be required. We'll have to check for the County specifications on that.

Mr. Lay: Are there any significant archaeological sites in this area that would have to be dug up in order to bury this--put these power lines underground?

Ms. Pulmano: As you can see there are several. There's actually several archaeological sites within this area here. Of course, Commissioner Lay, we'll try our best to avoid them, but you know, when you underground it takes a lot wider than when you're trenching.

Mr. Lay: Thank you.

Chair Hiranaga: The actual utility easement is how wide?

Ms. Pulmano: The utility easement right here, this corridor, help me, Paul?

Mr. Cleghorn: Thirty meters.

Ms. Pulmano: Thirty meters which is about 90 feet. Not the easement, but the width of the corridor that was surveyed.

Chair Hiranaga: Right, but the actual trench will be approximately how wide?

Ms. Pulmano: I would say--my guess would be about ten feet wide.

Chair Hiranaga: Right. So there's quite a bit of leeway for aligning the underground lines and you typically don't have to put them in straight lines since they are underground?

Ms. Pulmano: Yeah, you're right.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: Following up on this. There was testimony earlier today from somebody that said why are we making the transmission cross there rather than somewhere else? Do you wanna answer that question?

Ms. Pulmano: Sure. Mr. Stansberry actually was the gentleman that talked about that. And he was specifically talking about the Kula Highway crossing and not this highway crossing. And his--the highway crossing near his property as he said it was about 282 feet away. There's currently transmission lines running across the highway in that, in that area. So we have been meeting with him and trying to work on some details on--engineering details how we can visually reduce impacts to him and his property.

Mr. Mardfin: I just wanna make sure I understand how this is gonna look. You're gonna have your eight wind mills. From the wind mill you're gonna go underground?

Ms. Pulmano: No. Right now, the Commission has asked that we underground just at the crossing.

Mr. Mardfin: Oh, so it's gonna be above ground until you get to that black line then it's gonna go under and then up again?

Ms. Pulmano: Correct. The underground locations will be from here on the mauka side, a minimum distance of 200 feet and then on the makai side, a minimum distance of 200 feet. So it will be underground from here to here.

Mr. Mardfin: And what are those--the archaeological sites, what, can you characterize them at all for me?

Ms. Pulmano: Sure. Let me call Paul Cleghorn our archaeologist, and he can probably better define what those are.

Mr. Paul Cleghorn: Yeah, hi, I'm Paul Cleghorn. I'm the archaeologist with Pacific Legacy on this project. All of the sites were evaluated--all the sites within the APE were evaluated for their significance. All were found significant for the informational content, Criterion D. Several of the sites, 59 I think, were also evaluated with other significant criteria. The sites that we're looking at here with this crossing were only Criterion D. Mainly what these are, are agricultural sites, shelters, mounds, walls. It's not the larger, more significant sites. It's--none of the burial sites are in this area and none of the heiau are in this area.

Mr. Mardfin: In response to--it's still for your Paul--in response to you, your, the questions we raised last time there was an issue about the artifacts at Ulupalakua Ranch has and the response was that they will get--after everything's all fixed up, they'll get redeposited. Have they been recorded in any fashion?

Mr. Cleghorn: Yes.

Mr. Mardfin: So that we're not losing information?

Mr. Cleghorn: Yes, they have been. They've been--the artifacts that were collected and the samples that were collected from the test excavation have been analyzed, tabulated, put into our Archaeological Inventory Survey Report. The artifacts themselves have been photographed, they've been weighed, measured, et cetera. So we won't lose any information. It's, it's the landowners options to what they wanna do with them. They feel best right now, returning the artifacts to the sites where they were found, and we've talked about this and what we're planning to do is when we do return the artifacts, we'll take GPS locations of those artifacts at that point so if sometime in the future people wanna find those artifacts again for further analysis, they'll be able to find them.

Mr. Mardfin: And that consultation with kanaka maoli are happy with this arrangement?

Mr. Cleghorn: So far, yes.

Mr. Mardfin: Thank you very much.

Chair Hiranaga: Before we go further. I had earlier requested a copy of the drainage report and I don't seem to have a copy? Just to let the applicant know. Commissioner Shibuya, you had a question?

Mr. Shibuya: Yes, I have for Mr. Cleghorn. I have a question relating to, one of the testifiers mentioned a Ka`eo Ahupua`a boundary.

Mr. Cleghorn: Yes.

Mr. Shibuya: And even though it's not on the property that we're talking about, one of the service roads crosses it. What level of significance is this feature? Is that a D, is it a B?

Mr. Cleghorn: Good question. I looked at it because I was, I was trying to figure out what the comment was related to and that is down in the Makena area. It has already been breached by a, an existing road. My understanding is that existing road does not need to be widened at all, so there'll be no additional impact to this wall. But we recorded, we thought it was a cattle road, now I'm hearing it might be a boundary wall, yeah, we wanna look it. So right now, it's significant D only. If it does turn out to be a boundary wall it would be a different level as well.

Mr. Shibuya: Higher probably.

Mr. Cleghorn: Yeah, it's not higher, it's different as well, D as well as probably, I think it's B which is site significant for association with important events, could be a boundary of ahupua`a.

Mr. Shibuya: Right. I would like to ensure that maintains its integrity. Thank you.

Chair Hiranaga: Any other questions, Commissioners? Commissioner Mardfin?

Mr. Mardfin: I think again, for probably for Leilani. In Exhibit 32, looking for my copy, this is the one from UH and they raise several issues. For me, the most--there were two that had my ears up, on Page 3, and it says, "water quality impacts and coastal receiving waters" and in the first paragraph it says, "for example, the ripping bulk removal blasting and filling of project areas." Is there intended to be a lot of blasting here?

Ms. Pulmano: Oh, that word has caused us a lot of angst. Actually the better word to use is actually fracturing of rocks. Blasting brings up a very connotation of dynamite, but it's not the case. From what I understand from the engineers what happens is that they'll first, and during excavation use a dozer, a bucket and then they will then use a hammer, hydraulic hammer. There are certain steps to get to this fractured rock portion and at that point what will happen is when they do meet blue rock like we have here in Hawaii, they actually little pilot holes, one-inch pilot holes and use some kind of technique that fractures the rock.

Mr. Mardfin: Does that technique involve explosives?

Ms. Pulmano: Yes, but very small contained explosives to the area of--the rock will not burst into like as we see it in the cartoons, but actually just crack so they can remove it with a backhoe.

Mr. Mardfin: Is there, during all of this, I presume there's archaeological monitoring? There'll be an archaeologist there?

Ms. Pulmano: Yes, as part of our SHPD mitigation plans, archaeological monitoring is part of any ground disturbing activities.

Mr. Mardfin: If I may continue? I guess I'm gonna be able to. Further down that same Page 3, it talks about decommissioning. And I remember we had a long discussion about this at the time, and we've had some testimony today about community concerns about decommissioning. And my recollection is that they were gonna provide for this in some fashion and this comment seems to--well, tell me about--I recall seeing something about there being, there being a way to guarantee that the decommissioning would occur even if the particular company had some financial difficulties. Would you elaborate on that?

Ms. Pulmano: Sure, in terms of the financial assurances that the decommissioning plan would happen?

Mr. Mardfin: Yes, yes.

Ms. Pulmano: They are providing a Letter of Guarantee. Well, first of all, let me step back. The decommissioning plan within the lease agreement with Ulupalakua Ranch there's terms and conditions set forth that after the life of the project, it will have to be decommissioned, removed, and set to how it was previously. So that's part of a agreement with Ulupalakua Ranch. Auwahi Wind Energy is a subsidiary of Sempra Generation and Sempra Generation is subsidiary, I guess of what's called Sempra Energy, and they are Fortune 200 company. So they can provide a Parent Letter of Guarantee.



Mr. Mardfin: And so that's how they plan to do it with a Parent Letter of Guarantee?

Ms. Pulmano: Uh huh.

Mr. Mardfin: And the Planning Commission will--not the Planning Commission, the Planning Department will see that?

Ms. Pulmano: They can, uh huh. Right now, it's a, it's a contract agreement with the Ranch and Sempra.

Mr. Mardfin: I guess that's about --

Chair Hiranaga: Let me interject here, a Parent Letter of Guarantee from a Fortune 200 company. We all know companies come and go. So I mean, what financial security or collateral is being placed there besides a Parent Letter of Guarantee?

Ms. Pulmano: It's a pretty good question, and you know, I had the same thoughts as you and as I looked into the company itself, Sempra, Sempra Energy has a division which is very similar to MECO. They have a oligopoly, monopoly, whatever you call it for San Diego energy. So they're the MECO of San Diego.

Chair Hiranaga: Oligopoly is a better word than monopoly probably but--

Ms. Pulmano: I have a --

Chair Hiranaga: Commissioner Mardfin has a --

Mr. Mardfin: I share the same concerns that Chairman Hiranaga has. I remember Pan Am a wonderful, strong, strong company that no longer exist. The only possibility is some form of insurance or something like that, but insurance companies go out of business too. So I guess this is about as good as it gets at this stage, I don't know.

Ms. Pulmano: Do you mind if Mitch Dmohowski, the--our applicant respond to that?

Chair Hiranaga: Sure, I don't mind.

Ms. Pulmano: Thanks.

Mr. Dmohowski: Thank you, Leilani. Mitch Dmohowski, Development Director for Sempra Generation. This is a pretty standard structure in the industry developing projects like this and what, you know, larger stable companies like Sempra, they put in place a corporate guarantee. But I understand your concern companies do run into trouble and they do go out of business and that has been considered in these, in these traditional structures and what there is, is there's effectively a step up provision. So our company is an investment grade company right now. The rating it's a very, very stable company. Now this corporate guarantee that we have issued it's conditioned on that. If our, if our credit rating effectively goes down then that means we have to instead of our

Corporate Guarantee is effectively no longer good. It's no longer, it's longer considered good enough, so then we would need to put a Letter of Credit in place or put a bond in place, but it's to address exactly the concern you've raised. A lot of other people in the industry have seen that issue and that is how you address it. So I personally don't think that Sempra is gonna have any issues, but you know, knock on wood, but in that situation what would happen is we would replace this Guarantee with a Letter of Credit or a corporate bond. Does that resolve your...?

Mr. Mardfin: It's a good as--as I say, it looks like it's as good as it's gonna get. Nobody can predict the future.

Chair Hiranaga: Commissioner Shibuya?

Mr. Shibuya: More of a comment. Normally the larger projects that I've been involved in we do have bonding especially on one-of-a-kind type situation. But in this particular case, this is not one-of-a-kind. Sempra has based in various wind turbine generating systems. So they know the process here. And the risks for it are much less. And in the projects that I was involved in, there's one-of-a-kind, it's research and development and it is normally bonded.

Chair Hiranaga: Any other questions, Commissioners? Commissioner Lay?

Mr. Lay: I'm just trying to get a better visualization of this underground transmission line compared to, you know, talking about what we want to have done. On the one end we have--we're gonna have two poles on each side, 200 feet away compared to one pole, 200 feet away. We're gonna have to go underground so, digging, you know, chances of any archaeological stuff running across is probable. And also with the road closures at the time when we're going through this road there'll be detours that might, you know, slow down traffic again, and again, with the concrete jacket if that's possibility that might even make it more difficult. I'm just, you know, compared to a single line running overhead, single poles on each side, compared to two pools on each side of the road, concrete jacket, digging in the ground, road closures. So I'm trying to weigh that, you know, option on what's best for us. But that is the two choices, right?

Ms. Pulmano: That's correct.

Chair Hiranaga: So Leilani, with the underground proposal, how many poles would be eliminated net?

Ms. Pulmano: You'll add two.

Chair Hiranaga: So no--we will increase number of pools by two?

Ms. Pulmano: Yes, what will be eliminated is the overhead lines crossing the roadway.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: How high is that, if you went overhead, how high would it be?

Ms. Pulmano: Sixty feet.

Mr. Mardfin: What are current overhead trans lines go?

Ms. Pulmano: It runs anywhere from 30 feet to 100 feet.

Mr. Mardfin: Who's gonna make the choice on whether this is undergrounded or goes above?

Ms. Pulmano: I suppose you will.

Mr. Mardfin: Is there a difference in cost?

Ms. Pulmano: Significant difference in cost.

Mr. Mardfin: I mean, which is higher?

Unidentified Speaker: The underground.

Mr. Mardfin: Undergrounding is higher?

Ms. Pulmano: Yes, I would say about, about three times as much.

Mr. Mardfin: And potentially more damage to archaeological features?

Ms. Pulmano: Potentially, and also subsurface features that we haven't been able to locate.

Chair Hiranaga: Commissioner Shibuya?

Mr. Shibuya: I just wanna redirect at this point to noise. One of the testifiers mentioned noise as being of concern, and of course, noise is a real subjective item and it's irritating because of the intensity, the frequency and the duration in which the noise exist. These three conditions, can you address the movement of eight...(inaudible)... or what you call 'em ....(inaudible)... you have 13 axle types of transporting systems here. How fast is this gonna go and about what time would this be accomplished?

Ms. Pulmano: You're talking about the, the super loads?

Mr. Shibuya: Yes.

Ms. Pulmano: The transporting of the super loads as it affects noise?

Mr. Shibuya: Okay.

Ms. Pulmano: Okay. As I understand it, the super loads itself is not any noisier than what we see the deliveries with a 40-container truck that we normally see those VIP trucks or those big linen trucks. It's pretty consistently the same.

Mr. Shibuya: The rate of speed is different, considerably different.

Ms. Pulmano: Yes.

Mr. Shibuya: So now you have a duration problem, right?

Ms. Pulmano: It can travel the same as any vehicles that's traveling the roadways. Of course, during the turns like when they make the turns down Wailea Ike or onto Wailea Alanui, it will be much slower there.

Mr. Shibuya: Understand. And so now, you know, the irritation comes in with duration.

Ms. Pulmano: Right.

Mr. Shibuya: And the intensity you're saying is the same as the other construction trucks. Now, you're going much slower at this point, so the annoyance is a little longer for 8 times, right? And has been reduced from 15?

Ms. Pulmano: Right.

Mr. Shibuya: Okay. Thank you. Oh, another thing, the reason for these 13 axle is to distribute the weight on the pavement and in terms of one of the testifiers mentioned the possibility of destroying the highway, well, that's part of the provisions that the contractor is willing to repair. But the risks here have been mitigated by the 13 axles because you're distributing the weight.

Ms. Pulmano: Right.

Mr. Shibuya: Okay, thank you.

Ms. Pulmano: Thank you.

Chair Hiranaga: Commissioner Sablas?

Ms. Sablas: Hi, Leilani. We heard testimony about recommending that the applicant work with the American Bird Sanctuary on Best Management Practices to avoid harm to the birds to include initiating an employee training program. I'm an animal lover. I want you to address that comment.

Ms. Pulmano: Thank you for that question. It's already part of our Best Management Program to train our construction workers.

Ms. Sablas: Okay, thank you.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: If you would turn to Pages 49 and 50 of the report? In Table 1, you have super loads in months 6 and 7; and in Table 3, you have super loads in month 4 and 5. Is one of those

mistaken?

Ms. Pulmano: Yes it is.

Mr. Mardfin: Is it Table 3 that should be shifted over or Table 1 that should be shifted back?

Ms. Pulmano: Table 3 should be shifted over. Sorry, we didn't make the corrections to the Summary Table.

Mr. Mardfin: No problem. The second thing is on the next page, Page 51, second paragraph. It says, "super loads are anticipated to be transported during off-peak hours, 10:00 p.m. to 10:00 a.m." is that also a mistake?

Ms. Pulmano: It's not. It's actually changed. We've been working with the Wailea Community Association as you heard from Bud Pikrone, and he's asked us to look at different times than what we had in the original EIS, and this report was based on discussions within the Final EIS.

Mr. Mardfin: So at this stage is the 10:00 p.m. to 10:00 a.m. is off the table?

Ms. Pulmano: We've been working to maybe transport those super loads between the hours of 7:00 p.m. and 10:00 p.m.

Mr. Mardfin: Okay, that was in your later document.

Ms. Pulmano: Right.

Mr. Mardfin: So that supercedes this?

Ms. Pulmano: Correct.

Mr. Mardfin: It should be 7:00 p.m. -- 7:00 p.m. to 10:00 p.m.

Ms. Pulmano: Yes. We'll try our best to transport during that time.

Chair Hiranaga: Commissioner Wakida?

Ms. Wakida: I wanna come back for a minute to the underground question because that was my personal interest. The 200-foot mark would the additional poles be inside or outside that 200-foot mark on either side?

Ms. Pulmano: Outside.

Ms. Wakida: Outside. And how high are those new poles?

Ms. Pulmano: Sixty feet. They would still remain 60 feet.

Ms. Wakida: The ones that feed into the underground.

Ms. Pulmano: That's a good question. I'm getting nods, so yes, it would be 60 feet still.

Ms. Wakida: Thank you.

Chair Hiranaga: Commissioner Lay?

Mr. Lay: You were asking us to reconsider the Special Use Permit as far as the deadline. I was wondering is there any special reasons for that?

Ms. Pulmano: Yes, thank you for that question. I know we're not at that stage, but maybe I could just talk about that at this point. The conditions, and I can't remember what conditions they are on both the County Special Use Permits, Condition 1 and Condition 1. Condition 1 and Condition 1 for the County Special Use Permits, thank you. It proposes right now to expire at, on November 3, 2016. We understand this is kinda normal practice for the County. They normally actually give three years and then five-year extensions. They did do us a favor by giving us a five-year tier. But we are asking for consideration to extending that for 25 years. And the justification really is that they are contractually obligated at this point to provide energy to Maui Electric Company and within their lease agreement with Ulupalakua Ranch to provide energy for 20 years. And we're asking for that kind of same consideration to be consistent with that, that contractual agreement. It is a large financial investment that they're making. And the risk of a five-year expiration no matter how small it is, is a little bit too great of a risk for the applicant to take. And I'd like to also point out there has been several examples of County Special Use Permit expiration dates that extend over a very long length of time and in fact, I have a copy of a letter that you all approved just this past March for an interconnection substation for MECO at Kuihelani Highway and that was for a 20-year expiration date. The Mahinahina wastewater treatment plant, actually they're lucky, they don't have an expiration date. And the Lahaina Civic Center also does not have an expiration date. And also, just to let you know that two Oahu projects in Oahu they require a County Special Use Permit and they also have no expiration dates. So here we're just asking if you could consider a 25-year expiration date for that.

Mr. Lay: I know you, you stated on those other jobs on Oahu that the use permit is extended. Would their projects on the mainland, Sempra's projects, their permits is it on--is there a time limit on that?

Ms. Pulmano: Let me ask the applicant to respond to that. Thank you.

Mr. Joe Rowley: My name is Joe Rowley. I'm the vice-president of project development for Sempra Generation. Our permits are for the life of the facility. When we contract ourselves to sell power to a counter party for a time period in order to be able to make that commitment both legally and ethically, you have to have the ability to fulfill the contractual obligations for the entire term of the agreement. So we ensure that whether it's a lease or a permit or any other aspect of a project that is necessary in order for us to fulfill our obligation needs to have the same term as the obligation that we are under to supply the energy. So in this case, we're supplying to Maui Electric for 20 years clean renewable energy plus on the front end it takes time to construct the project and

on the back end time for decommissioning, so overall we're requesting 25 years to be consistent with that. Thank you.

Chair Hiranaga: Does the applicant or Department know how long the--I assume there's a SUP for the Kaheawa Wind Farm? Deputy Director has an answer.

Ms. McLean: Thank you, Chair. That was constructed under a Conservation District Use Permit with a lease from the State and the terms of those I believe coincide with each other.

Chair Hiranaga: Do you know the length?

Ms. McLean: I don't know the length of that offhand, no.

Ms. Pulmano: We can check with Cameron Black, who works with the State Department of DBED. I can remember what that stands for, for my life. Thank you, Business and Economic Development and it's for 25 years. Thank you.

Chair Hiranaga: Commissioner--Commissioner Mardfin?

Mr. Mardfin: Professor Mayer gave us six things to think about and I kind of--I'll do it a pair at a time but No. 1 was that off-peak hours for super loads shall operate from and he said 8 to 6:00 a.m., but you've already agreed 7:00 p.m. to 10:00 p.m.

Chair Hiranaga: Let me interject. I think he may have been speaking about the Kula route versus the Wailea route.

Mr. Mardfin: Actually it refers to passing through Kihei and Wailea.

Chair Hiranaga: Oh, okay. I stand corrected.

Mr. Mardfin: He's talking about super loads. The second he said, was all traffic signals and signs shall be returned to their normal operating state within one hour after the last super load has passed or by 6:00 a.m. which is sooner, and you said something about that, but I wasn't real clear as to what you guys were proposing.

Ms. Pulmano: In our Final EIS we actually proposed many different options and our first option actually would be to put up a temporary traffic signal.

Mr. Mardfin: Okay, but if you don't get that?

Ms. Pulmano: If we don't get that, our second option would be that there's a person actually takes down the traffic lights and once all the super loads have passed then they put it back.

Mr. Mardfin: So that would be within one hour of the last super load?

Ms. Pulmano: It could be. I mean, ideally it would be nice to have that all buttoned up, yeah. But

the 6:00 a.m. whenever is sooner, since we agree to be moving it between 7:00 a.m. to 7:00 p.m. that might not work out for that time.

Mr. Mardfin: So if it passes at 10:00 p.m., you'd have a couple of hours to take it down?

Chair Hiranaga: Just for clarity, removing traffic signals, traffic lights and having them reinstalled within one hour after the passing of the super load. Better put some thought before you agree to that.

Ms. Pulmano: Thank you.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: I'll do No. 3 and 4, 3 says no concrete trucks, semi trucks, dump trucks shall transit Kula -- Haleakala Highway/Kula Highway and the some additional stuff between 6:30 a.m. and 8:30 a.m. and 1:00 p.m. and 3:00 p.m. on school days.

Ms. Pulmano: Well, we're gonna be transporting all of our construction traffic during non-peak hours. We'll coincide that with the State Department of Transportation and with the County Public Works Department.

Mr. Mardfin: What do you consider peak hours to be?

Ms. Pulmano: It all depends actually on the roadway. It's different on different roadways.

Mr. Mardfin: Are you looking--this seems to be getting at school traffic peak load as opposed to the normal traffic peak load is. So you're okay with keeping it out of both peak loads? I mean, work and school?

Ms. Pulmano: That really limits a lot of ways that we can traverse the highway. I think in terms of construction workers, they're very cognizant about staying within the regulations for speed limits and highway safety.

Mr. Mardfin: So we'll have to ask Public Works about this at some point to find out what their rules are. His proposed No. 4, within 90 days after completion of the eighth windmill, the applicant shall be responsible for repairing any damaged bridges in the Keokea to Ulupalakua Road to a standard at least as good. You've agreed to restore it I believe, but I'm not sure there was a time limit on it.

Ms. Pulmano: Ninety days is pretty quick frankly.

Mr. Mardfin: What would you suggest?

Ms. Pulmano: I don't know. Hold on. If we could think about it and get back to you.

Mr. Mardfin: Okay.



Chair Hiranaga: Might be appropriate at this--well, no let's see--I think Public Works wants to comment on the removal and reinstallation of traffic signals and probably on determination of what type of repairs would occur on State or County roads that affect bridges and roads.

Mr. Lance Nakamura: I'm Lance Nakamura, engineer with Department of Public Works sitting in today for Rowena Dagdag-Andaya, Deputy Director of Public Works. As far as the removal of lights and signals, you know, they will need to obtain from the Department what we call a "Moving Permit" and they will need to submit to us detailed plans. That has not been issued or reviewed at this point. Although preliminary discussions have taken place I believe with our Engineering Department on that matter. So when that comes in, you know, we will review it. We'll make sure that whatever they proposed, you know, falls within our guidelines. Any of the input that received from the public that is put into I guess condition, you know from this body we certainly can incorporate that into our plan and take that into account once that submittal is made to us and the permit is approved. What was the second part of your question?

Chair Hiranaga: Regarding repairing any damaged bridges or roadways, I think that would also come under State or County jurisdiction determining what repairs are warranted.

Mr. Nakamura: Part of the Moving Permit is for us to look at overweight vehicles. So the proposal of why type of vehicles they will use will also be have to be reviewed by our Engineering Division. And they will have to be comfortable that the--or the vehicles will not cause damage to the roadways. I guess it's always possible that it can happen and you know, making a determination is gonna be not the easiest thing to do when you see a crack in the road after-the-fact. But, you know, to the extent that we are able to determine that they did cause the damage, I believe Public Works would say that they are responsible for fixing that.

Chair Hiranaga: Thank you. Commissioner Mardfin?

Mr. Mardfin: Dr. Mayer's No. 7, all mitigation statements and representations made in the Final EIS shall be complied with. Ann, that's usually in the conditions isn't it, that all the representations they've made are?

Ms. Cua: Yes, that is a condition.

Mr. Mardfin: So that's already taken care of.

Ms. Cua: Yeah, that is ...

Mr. Mardfin: It's not only in the Final EIS, it's in what they've said in this meeting too.

Ms. Cua: It's one of our, it's one of our conditions. I know I read it. I'm just having a hard time finding it right now.

Mr. Mardfin: Maybe this is for Leilani again. The owner of Ulupalakua testified aggregate soil will not be removed from the Ranch property. So that's--if it's a representation then it would be binding. What do they plan to do with it?

Ms. Pulmano: Keep it. Apparently soil is a very hot commodity in that area.

Mr. Mardfin: Hawaiian Homeland farmers could use some of it then, I don't know.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: He had a 6A here about Community Benefits Package, but I think we've discussed that so and the Energy Commissioner said that the, and the community said they're mostly concerned about the road. So, I'm reasonably satisfied with that. Is there any plans to do a power line back to Kanaio and Kahikinui?

Ms. Pulmano: Not at this point.

Mr. Mardfin: Thank you.

Chair Hiranaga: Okay, it's 12 o'clock. I think we'll recess for lunch and reconvene at 1:00.

A recess was called at 12:00 p.m., and the meeting was reconvened at 1:00 p.m.

Mr. Hiranaga: Are there any further questions from the Commission regarding this application? I have a question. If you could just explain to us your drainage plan?

Ms. Pulmano: Sure. Thank you for that question. The drainage plan, I guess it's because the project extends about ten miles across the way, I'll just talk about the components of it. The wind farm site itself, the area actually has very little rain and the rock is a lot of a rock so whenever it does rain it quickly absorbs within the ocean there. And the permeable surfaces within the wind farm site are actually very limited to these rock anchors and the O and M building. So we don't think that there's gonna be a huge increase in runoff at the wind farm site itself. In terms of the interconnection substation there is an increase there and so they will be providing a retention basin.

Chair Hiranaga: Why don't you know if there will be an increase in surface runoff at the windmill farm?

Ms. Pulmano: I'm sorry, I misspoke. There is. There will be a 3 ½ cfs increase in cubic feet per second. But as I understand it from the engineers, that's kind of within a margin of error when you're making the calculations. Is that okay? Do you want Mitch to address it a little bit more?

Chair Hiranaga: Sure.

Ms. Pulmano: Okay. And then just one more fact. The closest turbine to the ocean is 1,800 feet away from the shoreline.

Chair Hiranaga: So you mentioned a 1,000 feet previously. That's the boundary of the, but not the actual turbine?

Ms. Pulmano: Correct. Correct. Thank you.

Mr. Dmohowski: Mitch Dmohowski, Development Director of Sempra Generation. Thank you, Chairman. We had--I think Leilani had given you a copy of the Preliminary Drainage Report that we presented. We developed that in conjunction with our engineering consultant, RMT and they developed that drainage plan based on the Maui County Department of Public Works Rules for drainage, for drainage plans. You can see there's some background information in that analysis.

Now that analysis was done for the--when we were looking at the entire, the field -- the 15-turbine configuration. So actually the drainage now would have gone down to only 8 turbines, the drainage has gone down. In short, there's three different drainage basins for the project. You've got the wind farm site, you've got Papaka Road, and then you've got the, you've got the interconnection substation. Slightly different methodologies for calculating each of--the flow in each of the areas. But a lot of it is driven by what the rain, what the rain is gonna be at the different sites, but also about the soil conditions.

So for the wind mill site we look at a 100-year storm and the impacts of that. That is very extremely rocky soil. It's highly porous. It absorbs and the wind farm itself, of course, the lowest turbine to the water is 800 feet up. There's no development below that --1,800 feet that's what I thought I said. And the analysis that we did there is that it would be an increase of 3 ½ cubic feet per second during this 100-year storm.

Now that wind farm area that we're looking at is almost about two miles wide that 3 ½ cubic feet per second is less than a ½ a percent increase in the flow in that area and that really is, it's in the error of sort of the modeling. It's within the accuracy level so we didn't see an issue there. The Papaka Road, 4 ½ mile Papaka Road that's primarily already an existing road, the soil conditions there are rocky sort of silt. Not nearly as extremely rocky as over on the wind farm. You've got a little bit higher rain conditions there. But from what, again, the analysis they did there, they would be basically because the road is ...(inaudible)...Papaka basically minimal to no impact on the drainage there.

And at the, at the interconnection substation, much smaller area, that was based on the Maui County Rules or for an area I believe of 50 acres or smaller, below a 100 acres. A little different methodology there, but the soil there is silt loam, more erosion there, a little bit higher rain conditions, and so we did see an increase there and what we would expect the, and what we would expect the drainage to be and it was the tune of, off the top of my head I wanna say 15 percent more. So--and there is development down in that, below that area. So what we're gonna be doing in there is we're gonna be installing a drainage basin. The other areas won't have drainage basins, but they will have culverts, they will have ...(inaudible)...diverters for the, for the flow and there'll also probably be some rock lined channels and ditches which are standard best management practices from the building ...(inaudible)... RMT again has successfully built a couple projects here in Hawaii. So I'd like to think they know what they're doing, they've been pretty successful and we've reviewed their work and we're pretty happy with so far. Any other questions?

Chair Hiranaga: Thank you. Another question. What is a Project Storm Water Pollution Prevention Plan?

Ms. Pulmano: It's that SSWP. It actually talks about what the prevention measures for storm water.

It's part of a drainage plan that we'll be submitting.

Chair Hiranaga: So it's like a narrative?

Ms. Pulmano: Yeah, a narrative in Best Management Practices, yes.

Chair Hiranaga: Okay, thank you. Any other questions, Commissioners? Commissioner Mardfin?

Mr. Mardfin: Hi Leilani. We spent almost all our time looking at the wind farm site, and I don't know what question to ask, but you could tell us where MECO is in all this and what happens if this other site, on the other side of the ridgeline?

Ms. Pulmano: The interconnection substation?

Mr. Mardfin: Yes.

Ms. Pulmano: Sure.

Chair Hiranaga: Commissioner Mardfin, that's actually a separate agenda item?

Ms. Pulmano: It's included as part of this public hearing, I believe.

Mr. Mardfin: I'm happy to hold off.

Chair Hiranaga: No, I did not include it as part of the previous public hearing.

Ms. Pulmano: Oh, okay.

Chair Hiranaga: I mean, we're not gonna ask you to repeat your presentation.

Ms. Pulmano: Are you sure? Come on.

Chair Hiranaga: I thought from a protocol perspective two separate votes would be more appropriate.

Ms. Pulmano: Okay.

Mr. Mardfin: I'm willing to hold off that question till later.

Chair Hiranaga: Could have Kenny just play back your presentation.

Ms. Pulmano: I don't like seeing myself on camera. It's terrible.

Chair Hiranaga: Any other questions, Commissioners? Okay, seeing none, I'll open the floor to a motion? Oh, I'm sorry.

Ms. Cua: You might wanna hear our staff recommendation. Although you have, you have our recommendation we're gonna start with I guess the green copy. You have a green copy and a blue copy. And the green copy is on the actual wind farm and then the blue copy is pertaining to Maui Electric's portion which is the interconnection substation.

So we're first dealing with the County Special Use Permit and the Special Management Area Permit for the wind farm and its related improvements and we find that based on the facts presented in the Department's report the proposed action will not have, and this is relative to the County Special Use Permit, proposed action will not have a significant adverse environmental or ecological effect provided mitigative measures from the Final EIS are incorporated into the project. The proposed action essentially meets the objectives policies and guidelines of the SMA Rules. The proposed action is permissible pursuant to Title 19, Zoning, Chapter 19.30A.060, Special Uses, and the proposed action is consistent with the County Zoning and the Hana, Makawao-Pukalani-Kula, and Kihei-Makena Community Plans. Relative to Special Management Area Permit, we find that the permit does meet the significance criteria identified for review for issuance of a Special Management Area Permit and therefore the Planning Department is recommending approval of both permits based on the following conditions.

First, the County Special Use Permit. That the Special Use Permit shall be valid and right now we have it until November 30, 2016. We do note that the applicant is asking for the permit to be valid for 25 years which is up until 2036. The Department has no objection to that. Subject to extension by the Planning Director upon a timely request for extension filed at least 90 days prior to expiration. The Planning Director may forward the time extension request to the Commission for review and approval and may require a public hearing on the time extension by the Planning Commission.

The second condition deals with the compliance reports. Third condition, the transferrable condition. Fourth condition, the Auwahi Wind Farm Project Fire Management Plan dated February 2011 shall be implemented by the applicant during construction and operation activities. The applicant shall submit a signed copy of Page 2 of the FMP acknowledging that they understand and agree to implement the provisions of the FMP to the Planning Department prior to the start of construction. And the last condition recommended for the County Special Use Permit is that with a request for time extension for the CUP Permit, the applicant shall include copies of all SHPD acceptance letters of the various archaeological studies prepared for this project. And I think Leilani mentioned that she does have those, but she just hasn't gotten it to the Planning Department as of yet.

Further, the County Special Use Permit conditions will be enforced pursuant to the provisions of Chapter 19.53.030 of the Maui Code, as amended. Planning Department also finds that the criteria for the -- do you wanna act on that before we go onto the SMA or do you want me to go through the whole recommendation? Okay. We also find the criteria for the SMA Use Permit have been met and recommends approval of the SMA Use Permit subject to the following conditions. Condition 1 through 10 are standard conditions. So I won't go over those.

Condition 11, just deals with infrastructural improvements as required by Title 19 being put in place; 12, is Best Management Practices condition; 13, That in the event historic resources including

human skeletal remains are identified during routine construction activities, all work shall cease in the immediate vicinity of the find. The find shall be protected from additional disturbance and the State Historic Preservation Division, Maui Section shall be contacted immediately; 14, deals with the Noise Permit from the Department of Health and the last part of that condition states, "Noisy construction activities including blasting, if required, shall be conducted between 7:00 a.m. and 6:00 p.m., Monday through Saturday unless further restricted by the Department of Health Noise Permit"; 15, That the applicant shall notify the surrounding community in advance of the construction schedule and resolve any complaints or concerns prior to the start of construction; Condition 16, deals with the--a copy of the NPDES Permit. We want that filed with the Planning Department prior to initiation of grading activities; 17, That the applicant shall prepare and implement the following plans. Said plans shall be submitted to the Planning Department prior to or along with the Preliminary Compliance Report as evidence of their implementation, excuse me, and evidence of their implementation shall be submitted to the Planning Department prior to or along with the Final Compliance Report, and these reports are Project Storm Water Pollution Prevention Plan, Traffic Management Plan, Project Spill Prevention Containment and Countermeasures Plan, and Hazardous Materials and Waste Management Plan; Condition 18, That the applicant shall construct an informational and interpretative scenic overlook as proposed in the Community Benefits Identification and Implementation Plan dated July 2011; Condition 19, That the applicant shall in cooperation with the Department of Hawaiian Homelands and Ka Ohana O Kahikinui Inc., develop a Community Benefit Plan articulated in the form of a Memorandum of Agreement which addresses roadway improvements, needs of the Kahikinui Homestead community among other needs and projects.

The following action element shall be undertaken as part of the Roadway Improvements Benefit Plan process. First, the applicant shall meet with representatives of DHHL and the Ka Ohana O Kahikinui Inc., on an ongoing basis to ensure that the scope of roadway improvements are identified and implemented in a collaborative manner. Secondly, the applicant shall design a road section detail to the satisfaction of the Ka Ohana O Kahikinui Inc. Third, that the applicant in collaboration with representatives of DHHL and Ka Ohana O Kahikinui Inc., shall prioritize roadway improvements and develop a construction phasing sequencing plan which shall involve the establishment milestones for completion of agreed upon improvements. Forth, the applicant shall fund and implement the agreement, the agreed upon roadway improvements and finally the applicant shall in its Final Compliance Report provide a detailed report on the actions taken towards satisfying this condition.

The Department would like to add one additional condition. So that would be Condition No. 20, Not later than 24 months from project termination, the applicant shall remove all wind turbine generators and restore the surface of the ground at the wind farm site to its original condition as required by the lease guaranteed by the project owner's parent company with investment grade financial rating. If this guarantee is downgraded to less than investment grade, the project owner shall replace the parent company guarantee with an irrevocable letter of credit. A copy of the parent company guarantee shall be filed with the Planning Department prior to the filing of the Final Compliance Report. That includes our recommendation, Chair.

Chair Hiranaga: Question. Who would monitor their investment rating?

Ms. Cua: That's a good question. I'm not sure. Maybe Leilani can answer.

Ms. Pulmano: Mitch will answer that.

Mr. Dmohowski: This --

Chair Hiranaga: Will you just identify yourself please?

Mr. Dmohowski: Mitch Dmohowski, Director of Sempra Generation. Just for you to know this same exact question came up with the Hawaii PUC and we have to file compliance reports with them and with Hawaiian Electric on the status of the project during its life. So they, themselves, will be monitoring it and the Ranch I'm sure will be, will be watching it themselves. That's how, that's how we envision it being monitored.

Chair Hiranaga: So the Public Utilities Commission would be monitoring? You said they would be monitoring it?

Mr. Dmohowski: Right. We have to--that was one of the questions, you know, when they approved the PPA was basically if there's gonna be a decommissioning plan in place and how ...(inaudible)...

Chair Hiranaga: Okay, thank you. Commissioners, floor is open to a motion. Commissioner Freitas?

Mr. Freitas: I'd like to grant the Special Use Permit.

Chair Hiranaga: Speak into the microphone please.

Mr. Freitas: I'd like to grant the Special Use Permit for Auwahi Wind Farms as presented by the Planner.

Chair Hiranaga: Including the SMA permit?

Mr. Freitas: Yes sir.

Chair Hiranaga: As amended by the Department?

Mr. Freitas: Yes, Condition 20.

Chair Hiranaga: All 20, all 20 conditions.

Mr. Freitas: All 20 conditions.

Chair Hiranaga: And is there a second? Seconded by Commissioner Lay. Discussion? Commissioner Lay?

Mr. Lay: I'd like to make a friendly amendment on the County Special Use Permit, Condition No. 1,

Recommendation No. 1, that we change it from November 30, 2016 to November 30, 2036.

Mr. Mardfin: Second.

Chair Hiranaga: The maker of the motion has no objection?

Mr. Freitas: No objection.

Chair Hiranaga: Any further discussion? Commissioner Mardfin?

Mr. Mardfin: I guess I need to ask a question and then maybe I'll have a motion. My question is to Ann, and in your SMA condition. There are two parts to this question. In the SMA Condition No. 2, it says, final construction shall be in standard compliance with preliminary plans received by the Department of Planning in February, revised plans received by the Department in August and October, representations made at this meeting. Can we include the Environmental Impact Statement as well? Are the representations made there also included?

Ms. Cua: The--I don't think we've listed those, those dates, but the information whereby we prepared this report is--comes directly from the Environmental Impact Statement.

Mr. Mardfin: Is there anything wrong with including that or is it a standard condition so we're not allowed to?

Ms. Cua: No, no, no, I mean, you can, you can amend, you can amend any condition.

Mr. Mardfin: Then I would move to amend by adding the Draft Environmental--Final Environmental Impact Statement representations as well.

Chair Hiranaga: To which condition?

Mr. Mardfin: It's the SMA Standard Condition 2. It's on Page 5 of 8, at the bottom. It says, final construction shall be in substantial, and I would add, maybe it should be, final construction and operation shall be in substantial compliance with preliminary plans received by the Department in February of '11 and revised plans in August and October and representations made at this meeting. And I think it should be final construction and operation 'cause some of the conditions that they agreed to have to do with operations not just construction and that what is in the Draft Environmental Impact Statement should also be included.

Ms. Cua: I mean, we can add that to the condition. The date that the Commission accepted the Final Environmental Impact Statement is, well, you accepted it on August 9, 2011, but it was posted in the Environmental Notice on August 23, 2011.

Mr. Mardfin: Just for clarity I think we'd be to --

Ms. Cua: We could include that.



Mr. Mardfin: I think this could be a friendly amendment, but I --

Chair Hiranaga: Actually my preference is not to modify a standard condition --

Ms. Cua: Oh, okay.

Chair Hiranaga: --but to add a project specific condition because it would no longer be a standard condition if you're amending it.

Mr. Mardfin: Well, no it isn't anyway 'cause they have specific dates in here

Chair Hiranaga: But you're wanting to add the Final EIS compliance.

Mr. Mardfin: Yeah, but--I mean, it can't be standard if they have February 14, 2011 in there. That's not a standard condition for anybody except this applicant.

Chair Hiranaga: Deputy Director.

Ms. McLean: I think it still would--it's enough like a standard condition that it could be modified as Commissioner Mardfin is proposing.

Mr. Mardfin: And also to make it final construction and operation.

Ms. Cua: Yeah, got it.

Ms. McLean: Yes.

Mr. Mardfin: As a friendly amendment? Is it agreed by the maker of the motion?

Chair Hiranaga: Is there an objection from the maker of the motion? The seconder? No, the seconder of the main motion. You have no objection? Commissioner Mardfin?

Mr. Mardfin: Ann, can you explain to me why this--I like that the way you've modified Condition 2 for the SMA. Is there any reason that that's not under the--also a condition for the Special Use Permit?

Ms. Cua: Just because in the Special Use Permit, we're actually dealing with the use and we just felt it was more appropriate to include that as part of the development side of the project.

Mr. Mardfin: Since it now deals with operations, it seems to me that or maybe it would be operation part of it, it belongs under a Special Use Permit. Would the Department have any objection to that?

Ms. McLean: I would agree with what Ann indicated. The criteria that you're looking at for the two different permits one is, is this an acceptable use in the Agricultural District? The other is impacts in the Special Management Area and when you're getting as precise as these kinds of representations based on potential impacts that's more an SMA oriented condition rather than the

operation of a wind farm in the Ag District. So we look at them rather differently.

Mr. Mardfin: But they've made representations that they'll, -- be concerned about birds after the thing is operating which has to do with use and is yet a representation that they made, I mean, I trust these guys to do the right thing, but still in theory they could say well, it's constructed therefore, the SMA is complied with, we don't have to worry about these other things in the operation. I'm just asking, you know.

Ms. McLean: Yeah, again, it's--the County Special Use Permit is more of a broader use permit. This use being appropriate in the Agricultural District. It's not so much the finer impact based, you know, like noise, traffic, drainage, and those things are more SMA oriented.

Mr. Mardfin: Okay, I understand.

Ms. Cua: And if I could just add one more point. When we review compliance reports. You know, we're approving this together. We're gonna do one approval letter. They're gonna come in with a Compliance Report that addresses both permits. So we're gonna be looking at everything at that one time.

Mr. Mardfin: Okay, I can live with that.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: I would kind of like to revisit this whole thing about the underground line versus the above ground line. Leilani indicated that because of what we'd done in the past they were resigned maybe is the word to doing an underground line. I'm somewhat concerned about--I'm not terribly concerned about the cost, but I am concerned about the impact on archaeological structures. I'm not sure how much it will effect view plane in a positive way seeing as how you have to put an extra power not fewer poles. I actually think this is something that we could be proud of and if people have to go under a line, they say, oh, what's the line for and visitors looks out and say, oh wow these guys are really ahead of the game there. They're generating alternative energy. I think we should be proud of this not hiding it. Sixty feet above ground strikes me as a --you're not gonna have to worry about things coming in there. I'd just like to revisit this whole question about that particular part. I don't know how to do that. It wasn't a condition, a specific condition that you do --

Ms. Cua: It's not a condition. It is a representation that they've made.

Chair Hiranaga: It was request by a Commissioner and the applicant made a statement confirming that they would satisfy that request. So I guess if the request, if the person who made the request wishes to comment? Commissioner Wakida?

Ms. Wakida: I made the request based on visuals that we were given by the applicant. My interest was in preserving a relatively pristine view corridor as you come down the highway and that you don't have to be looking at a power line crossing the highway all the distance as you approach it and from either direction. I didn't know about the second pole, second two poles. However, they are gonna be outside the 200 mark limit. So that's where I'm coming from on this.

Chair Hiranaga: So your position is you would still want the--prefer to have the overhead line crossing the roadway underground?

Ms. Wakida: I would prefer. I am, of course, very sensitive as all of the Commissioners are to the archaeological sites and certainly want that to be a priority.

Chair Hiranaga: Question. How many lines would be crossing the road overhead?

Unidentified Speaker: Six.

Chair Hiranaga: So that would be, you have what, two crossbars on the pole or one cross bar? You need to come forward to the microphone.

Mr. Joe Rowley: Joe Rowley with Sempra Generation. There would be one set of poles with two circuits because it's three-phase power, each circuit has three wires. So you have three wires on one side of the pole, three wires on the other side of the pole. Each one of these wires would be supported by an insulator that's bolted to the pole.

Chair Hiranaga: So no crossbar?

Mr. Rowley: Typically not.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: Excuse me sir, could you--so if I were driving along the highway the poles are gonna be a 100--how far from the road?

Mr. Rowley: Are we talking about overhead or underground?

Mr. Mardfin: If overhead.

Mr. Rowley: About 200 feet either side of the road.

Mr. Mardfin: So 200 feet then the road, then 200 more feet and all I'd see going across the road are six lines?

Mr. Rowley: Correct.

Mr. Mardfin: At 60 feet high?

Mr. Rowley: They would be 60 feet high at the poles and of course there's a catenary between them.

Mr. Mardfin: Yeah, right. So went across the road approximately how?

Mr. Rowley: Well, by Code, no less than 30 feet.

Chair Hiranaga: Commissioner Freitas?

Mr. Freitas: Yeah, being that it's not a condition can we leave it up to the discretion of the developer? Being that it's not a condition.

Ms. Cua: You know, from the Planning Department's standpoint, yeah, we're not making it a condition, but I know --well, I may not be the one reviewing the staff report 'cause Joe will be back, I mean, the Preliminary Compliance Report and the Compliance Reports, but I think we would like some clarity here from this Commission because this, this whole exercise of going underground was in response to comments from I think a couple of Commissioners. So if that is not the desire of the body and we can get, and I think we should get some agreement here, so that if, if it's not a condition and if it's, you know, people's understanding that it may or may not happen I would just rather know and be clear because I don't wanna be, we don't wanna be the ones later on to say, why did you let them not underground it? We need clarity right here.

Chair Hiranaga: I'd like to ask Corporation Counsel from a procedural perspective how we may handle this since it's not a project specific condition. It's not specified within the motion, but it was a representation made at a --actually it was at an earlier meeting for the Environmental Impact Statement approval. And at this meeting the applicant made a comment saying that they would satisfy that request but it may not be the wish of the Commission that the power lines be put underground.

Ms. Richelle Thomson: Since it's not a condition that's being proposed by the Department, right now it's--I agree that if the applicant was willing, and the Department agrees with them it's not going to be condition. But I think that it will be a part of the public record and that should be sufficient.

Chair Hiranaga: Somehow I think, somehow I believe the Commission's intent and I don't know what the intent is because we haven't voted on it, it should be clear as to whether it should be underground or overhead. So should just put it to a vote I would think with an amendment for clarity. Commissioner Mardfin had his hand up first.

Mr. Mardfin: Mr. Chairman, I agree with you. We ought to make it clear because I would argue it is a condition since we just agreed that all the representations are conditions. We need to --if we don't want that, we have to explicitly say we wanna remove that as a condition because it was a representation.

Chair Hiranaga: Would you like to make an amendment to the motion?

Mr. Mardfin: Yes, I will move that we relieve the applicant of the responsibility of underground the --the representation of undergrounding the overhead--the transmission line and allow it to be above the road.

Chair Hiranaga: Motion by Commissioner Mardfin. Second by Commissioner Shibuya.

Chair Hiranaga: Commissioner Lay?

Mr. Lay: Make that a friendly amendment, amendment to that. If we can specify that the closest pole be 200 feet from the center of the road each way, being that it's centered. So we're keeping the farthest distance away from each pole between the road.

Chair Hiranaga: So for clarity the poles are approximately 400 feet apart is that the span?

Mr. Rowley: Joe Rowley, Sempra Generation. Yes, the pole spans, the poles are, are typically 350 feet to 400 feet apart. In this particular case, we can make it spot on 400 feet and place the poles exactly 200 feet out on each side and of course, that means that the sag will be at its lowest as it goes over the highway, but I think the intent of the Commission is to--since the poles are what really attract your eye. That it's best to keep the poles as far away from the highway as possible. So yes, we can design it that way.

Chair Hiranaga: Is there any objection to the maker of the amendment?

Mr. Mardfin: And it's perfectly okay as a friendly amendment.

Chair Hiranaga: Seconder concurs?

Mr. Shibuya: That's good.

Chair Hiranaga: Deputy Director wishes to comment.

Ms. McLean: If I could get clarification from the applicant that this area where the lines will cross the highway is that within the SMA? So that by making this an SMA condition it doesn't need to be -

Ms. Pulmano: The mauka portion is within the SMA. The makai portion is outside of the SMA. Oh, I'm sorry. The makai portion is within the SMA. The mauka is outside.

Chair Hiranaga: Commissioner Shibuya.

Mr. Shibuya: And just a point of clarification. We keep talking about poles. Is this really gonna be a pole versus a tower? I just wanna make sure that this is a pole and not a tower.

Chair Hiranaga: I believe it's a wooden pole.

Mr. Shibuya: A wooden pole.

Mr. Rowley: They will be wooden poles typically. There may be specific cases where we may want to use a steel pole, but still a pole. There's a place where there's a lot of--where extra strength is required for example, then there's certain cases where we might wanna use a steel pole instead of a wood pole.

Mr. Shibuya: Understand because it is a area where you have strong winds and normally you would in strong wind areas because you're running these thick cables that's carrying 69 kv that's

a considerable amount of cabling.

Mr. Rowley: And poles come in different strengths as well. So, I mean, that's all a matter of design. We have to have a design that takes into account the weight of the wire, the wind loads, all those things.

Mr. Shibuya: That's correct. That's what I was concerned. Thank you.

Chair Hiranaga: Any more discussion on the amendment? Seeing none, I'll call for the vote. All in favor of the amendment, so indicate by raising your hand.

Mr. Shibuya: Wait, wait, the motion. Is she gonna repeat it?

Chair Hiranaga: Okay, Deputy Director if you could repeat the amendment to the motion. Maybe you could summarize it.

Mr. Mardfin: The amendment is basically to --

Chair Hiranaga: Deputy Director.

Mr. Mardfin: I'm sorry.

Ms. McLean: And this is Commissioner Mardfin's amendment that the condition that the applicant shall construct and operate the project in substantial compliance with plans --

Chair Hiranaga: No, the amendment is to not require the applicant--because the others were accepted as a friendly --

Ms. McLean: Right, but this was an amendment to that condition, correct?

Ms. Cua: Yes.

Ms. McLean: It was proposed as--well, if I recall correctly it was proposed --

Chair Hiranaga: I think it's a project specific. It's not a --we wanted to make it for clarity not this--as far as requiring the power lines to be buried, we discussed and said it should be a project specific condition just for clarity.

Mr. Mardfin: I would, I would have interpreted this as a signal to the Department and to the applicant that they are relieved of their representation that the power line be undergrounded and they be allowed to have an above ground transmission. I don't know whether it's an additional requirement, whether it's embedded in the condition about representations, but it doesn't terribly matter to me. I think it's a signal that we are relieving the applicant of their responsibility to underground.

Ms. Cua: If I could? I think it would better to amend Condition No. 2 because at that last sentence

is where you're talking about, you know, and representations made at the November 8, 2011, Maui Planning Commission meeting and we could just add, "except for the undergrounding of the transmission lines along Upcountry Piilani Highway."

Mr. Mardfin: That's an acceptable way to phrase it.

Chair Hiranaga: Okay, great. Discussion? Commissioner Wakida?

Ms. Wakida: I will be voting against the addition, probably the lone wolf here. But I do have an objection to the visual impact of power lines as well as the poles, so that's my position.

Chair Hiranaga: Any other discussion? Commissioner Shibuya?

Mr. Shibuya: A quick one. I do respect and I would love to have the view planes retained. Unfortunately, I would also like to retain some of the historical aspects of our archaeological ancestors and historical aspects of it. I'd like to retain it even though they're Level D, I would not like to jeopardize that so I'm gonna have to vote for this.

Chair Hiranaga: Any other discussion? Seeing none, I'll call for the vote. All in favor say aye or raise your hand, I apologize.

Ms. McLean: Six ayes.

Chair Hiranaga: Opposed?

Ms. McLean: One no.

Chair Hiranaga: The motion carries or amendment carries.

**It was moved by Mr. Mardfin, seconded by Mr. Shibuya, then**

**VOTED: To Amend Condition No. 2 to Add at the End of the Last Sentence,  
"Except for the Undergrounding of the Transmission Lines Along  
Upcountry Piilani Highway."  
(Assenting - D. Mardfin, W. Shibuya, D. Domingo, L. Sablas, J. Freitas,  
I. Lay)  
(Dissenting - P. Wakida)  
(Excused - K. Ball)**

Mr. Hiranaga: Any further discussion on the motion on the floor? No more discussion on the motion on the floor. I'll call for the vote. Please say --

Mr. Freitas: One point of order. We have one more amendment that we made on the date.

Chair Hiranaga: That was a friendly amendment. There was no opposition.

Mr. Freitas: Okay.

Chair Hiranaga: Commissioner Wakida?

Ms. Wakida: Just for clarification, could you repeat what we're voting on?

Chair Hiranaga: Yes, apologize. Deputy Director.

Ms. McLean: This would be the main motion?

Chair Hiranaga: Yes.

Ms. McLean: As amended, with the extending the date of the permit to 2036, would be standard compliance condition being modified to include construction and operations. And including the Final EIS among those representations, but excluding the undergrounding of the line across the highway. Those were the only amendments made by the Commission.

Chair Hiranaga: No further discussion, I'll call for the vote. All in favor, so indicate by raising your hand.

Ms. McLean: We have seven ayes, Mr. Chair.

Chair Hiranaga: Opposed?

Ms. McLean: None.

Chair Hiranaga: The motion carries.

**It was moved by Mr. Freitas, seconded by Mr. Lay, then**

**VOTED: To Approve the County Special Use Permit and Special Management Area Use Permit as Recommended by the Department with the Conditions, as Amended.  
(Assenting - J. Freitas, I. Lay, D. Domingo, L. Sablas, P. Wakida,  
W. Shibuya, W. Mardfin)  
(Excused - K. Ball)**

Ms. Cua: Mr. Chair, we just wanna--we also had had added another condition, yeah, Condition 20. So we just wanna make sure that that was part of --

Ms. McLean: That was part of the maker of the motion.

Ms. Cua: Yes, okay.

Ms. McLean: Yeah.



Mr. Ronald Steben: Pardon me, excuse me, my name is Ronald. I am with the Risk Management Team and we are having an evacuation drill right now. It is--we would like you--you may stay, but the drill procedure is to go across the street at the parking right across, but...(inaudible)... big meeting, if you wanna stay that is fine. But just remember, the exit is right here and ...(inaudible)... across the street.

Ms. McLean: Thank you.

Chair Hiranaga: Okay, with public interest in mind. All of those that wish to participate in the evacuation may do so now. Those who do not wish to participate may remain. So as far as I can tell, we can move onto Agenda Item B-2.

Mr. Mardfin: Mr. Chairman?

Chair Hiranaga: Commissioner Mardfin.

Mr. Mardfin: We had said in our agenda that under Communications C-1, that we would take up 1:00 p.m. or soon thereafter the Costco thing. Do we follow the agenda or do we follow the time that we put in the agenda?

Chair Hiranaga: We'll follow the agenda because I believe hopefully this Item B-2 won't take too long.

Mr. Mardfin: C-1 may take some time.

Ms. McLean: We actually have to that are lettered C-1 on the agenda.

Chair Hiranaga: So, Deputy Director, Agenda Item B-2.

Ms. McLean: Thank you, Chair. This is a related wind farm permit. This is a request by Maui Electric Company for a County Special Use Permit for the wind farm operation which would be MECO's interconnection substation. This is also in Ulupalakua and this is just the County Special Use Permit. There's not an SMA Permit request related to this. Ann Cua again will be giving the Staff recommendation.

- 2. MR. CHRIS REYNOLDS of MAUI ELECTRIC COMPANY, LTD., requesting a County Special Use Permit for the Auwahi Wind Farm - MECO's Interconnection Substation consisting of an interconnection substation (IS) to step up electricity from 34.5 kV to 69 kV with a microwave tower and BESS facility. An all-weather gravel access road from Kula Highway will be provided to the IS. The subject property is located at TMK: 2-1-008: 001, Ulupalakua, Island of Maui. (CUP 2011/0003) (J. Prutch)**

Ms. Ann Cua: Mr. Chair, in the interest of time, you know, you do have the recommendations. We are-- we find --

Chair Hiranaga: Well, yeah before we go to the recommendation. We still have to have a public hearing. I'd like to give the Staff and the applicant an opportunity to make any additional comments they may have wished to add before we go to the public hearing. So, does the Department have any additional comments you would like to add?

Ms. Cua: For this County Special Use Permit, no we do not.

Chair Hiranaga: Okay. How 'bout the applicant?

Ms. Leilani Pulmano: Thank you. This is Leilani Pulmano with Munekiyo and Hiraga. We would just ask for your consideration again on this County Special Use Permit to extend the expiration to, to make it consistent with the one that was just previously approved. Thank you.

**a) Public Hearing**

Chair Hiranaga: Thank you. At this time, I will open the public hearing. Is there anyone here that wishes to speak regarding this agenda item? Please come forward, state your name and limit your testimony to three minutes. Seeing none, the public hearing is now closed. We'll have questions from the Commission. Commissioner Mardfin?

Mr. Mardfin: Yeah, Leilani can you--we've been focusing so much on the wind farm per se. Can you tell us about the interconnection site a little bit, briefly?

Ms. Pulmano: Sure. I'm sorry. I don't actually have a slide on, on the interconnection site itself. The interconnection site is here which is about a mile above Wailea community. And the interconnection site is--half of it is going to be MECOs and the other half is Auwahi Wind Farms. There's a fence that demarcates each side.

Mr. Mardfin: How big is it and what does it look like?

Ms. Pulmano: The facility is about two acres in total and it looks like the interconnection substations that you see everywhere kinda here. It's very similar to the MECO interconnection substation.

Mr. Shibuya: Leilani, may I help?

Ms. Pulmano: Sure, of course, please.

Chair Hiranaga: Commissioner Shibuya?

Mr. Shibuya: It's on a concrete pad and usually it's fenced, and cyclone fenced and has a bunch of switches, fuses and mostly transformers in there.

Mr. Mardfin: It's smaller than this room?

Mr. Shibuya: No, it's larger than this room.

Chair Hiranaga: Are you speaking of something that's on the corner of Dairy Road and Hana Highway?

Ms. Pulmano: Yeah, it looks similar to that.

Chair Hiranaga: So it's about 30 feet high?

Ms. Pulmano: Some structures are about that tall.

Mr. Mardfin: That answers my question as to the size of it.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: Can I ask the purpose in MECO owning have and Auwahi owning half. What's going on here?

Ms. Pulmano: Sure. One second let me just get Mitch up here to describe that, I'm sorry Joe Rowley.

Mr. Joe Rowley: The interconnection switch yard is separated into two halves as Leilani described. The MECO half is at 69 kv. So the MECO half has a MECO line coming in and out of it. It's an existing line and so they're placing the new substation that part of it, a 69 kv substation sort of in the path of that existing 69 kv line. So because that new line will need to interconnect with that, that substation, MECO needs to have control of those breakers otherwise they wouldn't have control of their energization of their line. So necessarily that 69 kv portion of the, of the substation is owned and controlled by MECO. Now on our side of the fence what we have is one 69 kv line coming to attach to the MECO substation facilities. So that line coming over the fence will be sort our, our interconnection. On our side of the fence is a transformer that steps the power down to 34 kv and the battery systems that are necessary to provide the power conditioning so as the wind turbines go up and down they don't cause lights to flicker and adverse effects on the MECO system. So that's all on our side of the fence. It's required that we provide power that's conditioned to a certain quality before it comes over the fence to MECO. So that's the reason why there's two, two parts. Theirs is 69 kv, ours is primarily 34.5 kv with batteries and the transformer that steps up to the 69.

Mr. Mardfin: So you're getting 69 coming in from the wind farm into you. You're stepping it down to 34. You're passing them 34.

Mr. Rowley: Other way around. Other way around, 34 kv coming from the wind farm, going through the battery system and then 34 kv going to our transformer that's on our side of the fence that steps up to 69 kv and 69 kv goes over the fence to MECO substation.

Mr. Mardfin: Thank you. I think I understand it.

Mr. Rowley: And their line is at 69 kv.

Chair Hiranaga: Any other questions for the applicant or the Department? Seeing none, we'll have

the Department's recommendation.

**b) Action**

Ms. Cua: The Department is recommending approval of the County Special Use Permit with eight conditions as listed. Do you want me to go through them? You have them, correct? And we will be supportive of Condition No. 1 being amended or changed from November 30, 2016 to November 30, 2036. So that becomes our proposal at this time. And then, thank you, Deputy Director, we would also want to amend Condition No. 4 to be consistent with how we amended Condition No., I think it was 2 under the SMA standard conditions.

Chair Hiranaga: Thank you. Motion, I mean the floor is open to a motion.

Ms. Cua: Oh, I'm sorry. This one doesn't have the undergrounding part of it. So we would just need to add the word, "and operation" and we would need to add the Final EIS language.

Chair Hiranaga: Commissioner Shibuya?

Mr. Shibuya: Move to adopt as recommended.

Mr. Freitas: Second.

Chair Hiranaga: Moved by Commissioner Shibuya, seconded by Commissioner Freitas. Discussion. Commissioner Wakida?

Ms. Wakida: Ann, did you include the new date?

Ms. Cua: Yes, we did.

Chair Hiranaga: Any other discussion? Seeing none, Deputy Director could you restate the motion?

Ms. McLean: Thank you, Chair. The motion is to approve the County Special Use Permit with the eight conditions in the Staff recommendation with the two revisions. One extending the date to 2036 and the other revision on the substantial compliance condition to include "operations" and to include "the Final EIS."

Chair Hiranaga: All in favor of the motion so indicate by raising your hand.

Ms. McLean: Seven ayes, Mr. Chair.

Chair Hiranaga: The motion carries.

**It was moved by Mr. Shibuya, seconded by Mr. Freitas, then**

**VOTED: To Approve the County Special Use Permit as Recommended by the Department with the Conditions, as Amended.  
(Assenting - W. Shibuya, J. Freitas, I. Lay, D. Domingo, L. Sablas,  
P. Wakida, W. Mardfin)  
(Excused - K. Ball)**

Chair Hiranaga: We'll take a ten-minute recess and reconvene at 2:05.

A recess was called at 1:55 p.m., and the meeting was reconvened at 2:05 p.m.

Chair Hiranaga: Call the meeting back to order. If there is no objection from the Commission, I'd like to move forward to Communications, Mr. Gary Slovin and Mihoko Ito of Goodsill Anderson Quinn & Stifel, attorneys for Costco Wholesale Corporation. Is there any objection to us moving to that agenda item at this time? Seeing none, Deputy Director.

Ms. McLean: Thank you, Chair. I'll just give a brief introduction. On September 13, the Commission denied a request to intervene. That request to intervene was filed by Dairy Road Partners to intervene on the Costco Wholesale Corporation's SMA permit application for their warehouse expansion. What you have before you today is a proposed Findings of Fact, Conclusions of Law and Decision and Order denying that Petition to Intervene. And so, today you may take action to adopt or modify the proposed order as your written Decision and Order. Danny Dias was the Staff Planner for the original permit application

**C. COMMUNICATIONS (To be taken up at 1:00 p.m. or soon thereafter.)**

- 1. MR. GARY SLOVIN and MIHOKO ITO of GOODSILL ANDERSON QUINN & STIFEL, attorneys for COSTCO WHOLESALE CORPORATION requesting adoption of the proposed Findings of Fact, Conclusions of Law, and Decision and Order regarding the Maui Planning Commission's September 13, 2011 action to deny DAIRY ROAD PARTNERS' Petition to Intervene on the COSTCO WHOLESALE CORPORATION's Special Management Area Use Permit application for the Costco Warehouse Expansion Project consisting of an approximately 29,067 sq. ft. addition to the warehouse store; a 3,200 sq. ft. car wash; ten lane five island self serve gasoline fueling facility; addition of 128 parking stalls and related improvements at 540 Haleakala Highway, TMK: 3-8-079: 022 & 013 (por.), Kahului, Island of Maui. (SM1 2010/0009) (D. Dias)**

Mr. Danny Dias: Thanks Michele. Just a really brief summary if you recall after the Commission denied the Petition to Intervene, Corporation Counsel, James Giroux asked the applicant's attorney, Gary Slovin to draft the Finding of Fact, Conclusions of Law and Decision and Order and bring it before this Commission for approval. So that's what you have in front of you today. Also what you have is Dairy Road Partner's attorney, Lee Ohigashi filed an Objection to the Decision and Order and lastly a response to the petitioner's Objection to the D&O that was filed by Gary Slovin. So with that, I'll hand it over to Corp. Counsel.

Chair Hiranaga: Yeah, I'll ask Corporation Counsel to sort of give a brief explanation of what is expected of the Commission.

Ms. Thomson: So as the Deputy Director said, the Commission can adopt the proposed Findings of Fact and all--and modify them and make their own and consider the objections that were submitted so they can take ...(inaudible)... action.

Chair Hiranaga: So at this time, I'll allow the applicant to make a few comments, and then I'll give the person, the objecting party an opportunity to comment.

Mr. Gary Slovin: Thank you, Mr. Chair and Members of the Planning Commission. I'm Gary Slovin on behalf of Costco and Chris Hart .and Ray Cabebe of Chris Hart and Partners is also here today. Pursuant to as was noted at the last hearing, we did forward proposed Findings of Fact and Conclusions of Law to the Commission for its consideration and we would ask that it be adopted. We have looked at the objections to the--that have been filed by Dairy Road Partners. In reviewing that to us what it looks like is they're essentially really asking for a rehearing on that, but the decision you're hearing this really is a matter of looking at the form. It's really your Findings of Fact and Conclusions of Law, of course, which you can modify as you see fit. We didn't see any objections that really are substantive. I just would make a couple of comments on what's been presented. I think the key issue that the Dairy Road Partners is trying to raise here and I think procedurally that's really not appropriate. This isn't, this isn't a procedure that really allows for new evidence. This is merely on the proposed Findings of Fact. And to comment on that and to, I think the significant element of what they provided is their assertion that Dairy Road Partners property is within 500 feet of the applicant's property and that isn't correct. The applicant's property here consists of the present Costco Wholesale site plus a small piece of the A&B site. We stated at the last hearing that it isn't within 500 feet. No notices were sent. At that hearing on September 13<sup>th</sup>, Dairy Road Partners didn't indicate it was within 500 feet. It isn't within 500 feet and nor do they object to the fact that they didn't get notice. On the A&B case, they objected they didn't get a notice for this...(inaudible)...deal with that issue. But here they never objected to that. So I think it's clear that they're not within 500 feet. To argue that the whole A&B parcel that was subject to that--of that application was within 500 feet and therefore the Costco application is within 500 feet. That doesn't clearly make any sense. We're not developing the whole A&B site. We're working to expand the present Costco and it is just an expansion of the present Costco. It's not a brand-new facility and a small piece of that A&B site.

But further in the A&B case they did file a notice. They did give notice to the, one of the owners of the property. But in the Motion to Dismiss their appeal from your denial of their effort to intervene to get involved in that case, A&B had a survey done and that survey indicated that the Dairy Road Partners' property isn't even within 500 feet of the A&B property and Dairy Road Partners knows that because they were involved in the Motion to Dismiss. By the way, that Motion to Dismiss was granted. So this Commission's decision that they did not, were not entitled to notice in that case has been upheld by the Circuit Court on Maui. Those documents, I have attached a piece from that document indicates a survey was done indicating that the A&B property is not within 500 feet of the Dairy Road Partners' property. So they're not within 500 feet of Costco's application--property that's subject to the Costco application. They're not within 500 feet of the property that's subject to the A&B application and obviously because of the way they presented it, they seen that as a very

key issue, and it is because the distance they are from that property, plus other factors that were discussed at the hearing indicates they don't have a unique issue here. They're really no different as the Commission noted. No different from, from anybody else. And as a result, they're not really not entitled to intervene.

The only other thing I would add here right now is that, is they cite a case, the East Diamond Head case. It's completely different than this case. In this case, Costco is using a property that's permitted use. We're dealing here only with the SMA. That was a rezoning. It was in a residential area. It was a property adjoining the property of the people who were trying to protest to that. They were gonna build, I believe the Diamond Head Studio. It was some kind of a film studio. So it's a rezoning. The property is right next door. And it's just--the facts are just not at all what they are here. But fundamentally, we had an extensive hearing, questions back and forth at the hearing on September 13<sup>th</sup>. This Commission made a decision and we think that the effort to rehear that today is really inappropriate. There was plenty of basis for this Commission to make the decision it made and therefore we believe that the Findings of Fact and Conclusions of Law that we propose should be adopted subject of course, to any modifications that the Commission within its discretion believes it should be adopted. Thank you.

Chair Hiranaga: Thank you. Does Dairy Road Partners wish to make comments?

Mr. Lee Ohigashi: I guess I wanted to make short comments. The first comment is that at the September 13<sup>th</sup> hearing, at the last hearing, it was, it was that Mr. Slovin's--Costco was supposed to file a proposed Findings of Fact and we were allowed to--Corporation Counsel said to file our written objections to it and that's what we did. So I just wanted to make sure that the Commission understands that we're just following what the Corporation Counsel told us to do to file our written objections.

The second issue is the basis for the objections and we cite provisions within here to support our terms of our objections and we have cited from the parts of the record as well as the parts of the uncontested record that is before Commission in the A&B case. If you take a look at--if you take a look at the file in this case, Costco's case, originally they had proposed to notify only owners within 500 feet of the actual project area. That's why I remember when Commissioner Mardfin asked me that question about whether or not this is within 500 feet, I replied that it is with 500 feet of the A&B property and not the actual project area. However, after they were--the Planning Department required them rather than sending 500 feet from the actual project area, okay, required it to be sent from the actual boundaries of the A&B area since the A&B area had not been subdivided at that time, it's not been--it's recognized as a whole parcel. So if you have a project on a portion of it, they should have notified the project as a whole. And that's what we, we pointed out to the Commission that we were within, we believe we were within 500 feet.

Now the question turns is that whether or not the Commission decided we were in 500 feet in the A&B case and that wasn't done. The record on file in the A&B case--the A&B case what happened was we filed a Motion for Reconsideration. The Commission denied our Motion for Reconsideration and instructed that Findings of Fact and Conclusions of Law should only refer to anything that happened at the actual hearing date. And the actual hearing date, the only record that is on file as to what is within 500 feet is the Affidavit of Karlynn, I believe Karlynn Fukuda that we've attached

hereto saying that this property is within 500 feet. We are not using it for notice purposes. We are saying that the proposed findings should treat us like we're an adjoining property owner. We're within the 500 feet status and that is our argument and we're saying we're objecting to the proposed, the proposed Findings in Fact and Conclusions of Law based upon these particular parts of the record and particular the findings that are made in the A&B case, okay. So I'm not sure what Mr. Slovin is arguing, but we are arguing--well we are--first of all we're properly filing these objections and we're supporting our objections by the record that is before this Commission.

The second thing, the second thing that Mr. Slovin indicated was the inapplicability of the East Diamond Head case. Now, you're never gonna find a case that is entirely on point, but what we wanted to use that...(inaudible)... is to show that there is a reason why an economic interest should have special status and that's what the court says is economic interest has that status. So in essence, we are arguing, again, we are saying that we believe that the proposed findings are wrong since we believe that there is case law in support that there is a economic basis for it. And essentially that is our argument for it and we've outlined each findings and our explanations of that.

Chair Hiranaga: Commissioners, you have questions for either Costco or for Dairy Road Partners? Commissioner Mardfin?

Mr. Mardfin: Mr. Slovin, you said something in passing that caught my interest. Did you say this has been court to already, a portion of this has been to court already?

Mr. Slovin: The A&B, the A&B case has been to court and in that action, a Motion to Dismiss was filed by Greg Garneau of A&B and that included a certificate by a surveyor indicating that the Dairy Road Partners property is 537 feet from the A&B property. But this case has not been, but the A&B case has been and that document was filed as part of it.

Mr. Mardfin: So the court agreed that it was 537 feet?

Mr. Slovin: Didn't make a finding on that. They simply granted the motion to dismiss.

Mr. Mardfin: Thank you.

Chair Hiranaga: Commissioner Wakida?

Ms. Wakida: I'd like to follow up, it's a clarification. I'm looking at map here that shows the property that comes up to the highway. Is that what you're talking about that the edge, that highway edge is not--is 537 feet?

Mr. Slovin: I don't recall exactly how the--where the surveyor noted but it would be the closest point, the closest point. And remember they're two different projects and...(inaudible)... confusing.

Ms. Wakida: Yes.

Mr. Slovin: With regard to the Costco project, and the property identified as the Costco project, there's any issue that the Dairy Road Partners property is more than 500 feet from every part--any



part of the Costco project. In addition, the A&B project which involves the whole subdivision, it's a very different area, it just adjoins at a certain point, a very different area there was an issue about whether the Dairy Road Partners was 500 feet from the A&B property. And there wasn't any survey presented at the time of the hearing before the Planning Commission as I understand it. But as part of its Motion to Dismiss, A&B argued that aside from other issues, Dairy Road Partners property was more than 500 feet at the closest points and provided that certificate as part of the record.

Ms. Wakida: Thank you.

Chair Hiranaga: Commissioner Mardfin.

Mr. Mardfin: My understanding, and please correct me if I'm wrong either one of you that the 500 feet is for giving notice to people.

Mr. Slovin: Correct.

Mr. Mardfin: It has nothing to do with whether there are impacts on people that 500 feet is not a thing you're--where it's determined if you're within it, you have an impact, if you're outside of it, you don't have an impact. Is that correct?

Mr. Slovin: Well, I think it's a factor. So I--no, I don't think that's entirely correct. I think the closer that my property is to your property, the more likely that there will be a unique impact on me as opposed to my being impacted in the same way as the general public. So I think it is relevant from that point of view and I think that's why 500 feet is a fairly typical distance used. It's used in Liquor Commission proceedings for example, and these proceedings. So it isn't completely definitive. You could certainly make a case that if you're outside the 500-foot boundary that you still are so uniquely affect that you should be given a right to intervene. That certainly is true, but it is a factor that you consider.

Mr. Mardfin: Yeah, but I think within the Planning Commission, it's been a, it's been a matter of notification not so much an issue of impact.

Mr. Slovin: It is a issue with notice, I agree. I do think of it as a factor, but it's--I don't think even in the course of the hearing that it was presented as the, as the major factor, but one of a number of factors. That's why the Commission denied the petition.

Mr. Mardfin: Mr. Chairman, I believe the other counsel --

Ms. Thomson: Mr. Chairman?

Mr. Mardfin: --would like to respond? Can I ask either one?

Chair Hiranaga: Corporation Counsel wishes to make a comment.

Ms. Thomson: I wanted to remind the Commissioners that what is being considered here today isn't a rehearing on the Petition to Intervene, but simply a recordation of the Findings of Fact,

Conclusions of Law, so you can consider the applicant's and you may, you know, modify his, you know, and certainly take into account what the--what Mr. Ohigashi has presented if you wish.

Mr. Ohigashi: Can I just talk--

Chair Hiranaga: Just before you say something, just for clarity, Parcel 3-8-079: 013 (portion of) is the portion that the carwash will be located upon?

Unidentified Speaker: Gas station.

Chair Hiranaga: A gas station.

Unidentified Speaker: Gas station.

Chair Hiranaga: And carwash, huh? No carwash?

Unidentified Speaker: Carwash will be a different area.

Chair Hiranaga: I see. And Parcel 3-8-065: 027 is the parcel that Costco is located upon now?

Mr. Hart: And the carwash.

Chair Hiranaga: Can you speak into the mic please? Just, maybe you could repeat your answer for the record.

Mr. Chris Hart: Yeah, Chris Hart, Chris Hart and Partners. The gas station is located on the 4.1 acre parcel and it's being two parcels--that are actually being purchased from A&B.

Chair Hiranaga: That's portion of 3-8-079: 013?

Mr. Hart: That's correct. And the second parcel is the warehouse parcel and the carwash will also be included on the warehouse parcel.

Chair Hiranaga: It's 3-8-065: 027?

Mr. Hart: Yes.

Chair Hiranaga: Okay. Just for clarification. Thank you. Mr. Ohigashi.

Mr. Ohigashi: I just wanted to comment that --

Chair Hiranaga: Could you please identify yourself?

Mr. Ohigashi: Yeah, Lee Ohigashi. Regarding Mr. Mardfin's question. The 500 is a, it's true, it's a notice requirement but the reason we give notice to people within 500 feet is it's presumed to be that they have more of a special interest in this property than then other. Then if that was the case

we wouldn't give written notice to anybody and we would rely on the notice provisions in the newspaper. But the reason why you give notice to people within 500 feet is because they, they are presumed to have an interest in the, in the, in the particular development. And that's why we're saying that if -- that although it is a factor, it should be considered a high factor since that is the Commission's determination as to who is impacted by this development. The Commission by giving this special notice is given to those persons who are impacted by the development, determined to be ...(inaudible)... and that's what your definitions say.

Chair Hiranaga: Okay, so now the floor is open for comments or discussion to the proposed Findings of Fact, Conclusions of Law, Decision and Order denying Dairy Road Partners Petition to Intervene filed August 29, 2011. Is there anyone here wishes to provide testimony from the public regarding this agenda item? Seeing none, public testimony is closed. Commissioner Mardfin?

Mr. Mardfin: I would like to ask about in the--proposed Findings of Fact, Conclusion of Law, Decision and Order denying Dairy Road Partners, on Page 4, Item 14, it says, "Petitioners documents and statements at the hearing indicated that his primary focus was on traffic. However, petitioner was unable to demonstrate that the traffic impact on its property, located more than 500 feet from applicant's property, would be affected in a manner distinguishable from other properties in the same general area." That's the only place I see 500 feet. And I'd like to ask either one of the gentlemen whether that clause, "located more than 500 feet from applicant's property" is necessary or sufficient? I mean, if we could just delete that, it might satisfy both.

Chair Hiranaga: I would suggest you pose a question. Is there any objection from either party --

Mr. Mardfin: Is there any objection from either party for deletion of that?

Chair Hiranaga: --for deletion of that language.

Mr. Mardfin: Thank you.

Mr. Slovin: Excuse me, 500 feet is also identified in No. 12, on Page 3. Again, it's the Commission's decision. I believe it's based on the discussions that--as Mr. Ohigashi has stated, I think the 500 feet is significant. It's not as significant as the finding overall. I think it was a fact that was and a conclusion that was an element of that hearing so I mean it is--it is what it is and I think you demonstrated that it is. The fact is that Dairy Road Partners property is more than 500 feet from the project. I mean, can't change that. That's inescapable.

Mr. Mardfin: Is, is that necessary to change the Commissioners, the Commission's Findings of Fact, Conclusions of Law regarding a denial of intervention?

Mr. Slovin: Well, I don't think it affects the Conclusion--the Conclusion of Law. I think we would rather see it in. I'm trying to see if we included it in just the Findings of Fact section. Oh, it is in the Findings of Fact. So I think because it is a fact that was found, I think it--I mean, this is to the discretion, I think it was a fact and so, it was discussed at the hearing and I think it just reflects the record. It just reflects the record. It's only a Findings of Fact.

Chair Hiranaga: Okay, thank you. Does Dairy Road Partners wish to comment? Please go to the microphone.

Mr. Ohigashi: I thought that was on.

Chair Hiranaga: It's not on.

Mr. Ohigashi: Those are, those are the sections that we brought this up on. Those are the exact sections that we filed the objections to and we'd note that-and in fact, there was no finding by this Commission regarding whether or not that portion of that property was within 500 feet.

Chair Hiranaga: So your answer is you object to the removal or --

Mr. Ohigashi: No, we, we've objected to the inclusion of those sections in our, in our --

Chair Hiranaga: So you would agree to the request?

Mr. Ohigashi: We'll agree that it should be removed.

Chair Hiranaga: Thank you. Commissioner Shibuya?

Mr. Shibuya: Is it proper for me to voice my, my thoughts on this?

Chair Hiranaga: Not at this time.

Mr. Shibuya: Okay.

Chair Hiranaga: Commissioner Freitas?

Mr. Freitas: Question for Corporation--Corp. lawyer, excuse me.

Chair Hiranaga: Corp. Counsel.

Mr. Freitas: Counsel, whatever. Anyway, what are we addressing? We're addressing the Conclusion of Law right now. We're not amending or changing it am I right?

Ms. Thomson: You're--what you're doing is reviewing the applicant's proposed Findings of Fact and Conclusions of Law. So the Finding of Fact would be the matters that you heard as a body in the September hearing date and the Conclusions of Law are based on the criteria set out in the Commission Rules.

Mr. Freitas: So you cannot change if --

Ms. Thomson: No, you can, you can modify that if that's not what the Commission--you can change anything that you want in there to reflect the record as you recall it. So if the--let me say it another way, this document needs to reflect that hearing so the matters that were, that you used were--that

you based on your decision on to deny the petition to intervene. So the 500 feet may have been a relevant factor at that hearing. And if it was discussed and decided upon, if that was one of the facts that led to the decision to deny the Petition to intervene then it's likely proper to be included as a Finding of Fact.

Chair Hiranaga: Could you speak into the microphone, please?

Mr. Freitas: Yeah, because I was the maker of the motion to deny and as far as I remember, these--this was the reasons why I made the motion to deny the intervention.

Chair Hiranaga: Any more questions for Costco or Dairy Road Partners. If not, I'll open the floor to a motion.

Mr. Freitas: I move that we accept the Finding of Fact and Conclusions of Law.

Chair Hiranaga: So moved by Commissioner Freitas.

Mr. Shibuya: Second.

Mr. Lay: Second.

Chair Hiranaga: Seconded by Commissioner Shibuya. Discussion? Commissioner Shibuya?

Mr. Shibuya: I will support this draft. I think there's nothing erroneous in this. I think it has factual, is factual and it does reflect the facts and it does as I recall the motion that all of these items were discussed and considered.

Chair Hiranaga: Commissioner Mardfin.

Mr. Mardfin: I have a question for Corp. Counsel. I was excused--I heard some of the discussion, but then I--after lunch I had to go somewhere or before lunch I forget what it was, I had to go somewhere. I was absent when the motion was made and the vote cast. So I don't know whether the 500 feet was discussed, agreed upon, disagreed with or whatever. What options do I--as opposed to the rest who were here during the vote, what options do I have? Should I recuse myself or?

Ms. Thomson: I believe you could request to be excused from the vote and there is sufficient number to still have quorum if you feel that you can't vote on this because you weren't present for the entire hearing.

Mr. Mardfin: Thank you very much.

Chair Hiranaga: Any more discussion? If not, ask the Deputy Director to restate the motion.

Ms. McLean: The motion is to adopt the proposed Findings of Fact, Conclusions of Law and Decision and Order.

Chair Hiranaga: I'll call for the vote. All in favor, please indicate by raising your hand.

Ms. McLean: Six ayes, Mr. Chair.

Chair Hiranaga: Opposed?

Ms. McLean: No opposed.

Mr. Mardfin: Mr. Chairman?

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: I didn't vote because I was not present during the final deliberation and hearing so--it's improper for me to vote on this.

Chair Hiranaga: Okay, actually a non vote is a affirmative, but since you stated your reasoning, we'll allow this one to pass.

Mr. Mardfin: I should have stated I wish to be excused therefore, it's not an, it's not an abstention.

Chair Hiranaga: Well, you should have stated that before we took the vote. But anyway, no worries. The motion carries.

**It was moved by Mr. Freitas, seconded by Mr. Shibuya, then**

**VOTED: To Adopt the Findings of Fact, Conclusions of Law, and Decision and Order.**  
**(Assenting - J. Freitas, W. Shibuya, I. Lay, D. Domingo, L. Sablas, P. Wakida)**  
**(Abstention - Mr. Mardfin did not participate in the vote as he noted he was not present for a portion of the meeting that the action to deny the Petition to Intervene was taken)**  
**(Excused - K. Ball)**

Chair Hiranaga: We'll take a ten-minute recess and reconvene at 2:45.

A recess was called at 2:35 p.m., and the meeting reconvened at 2:45 p.m.

Chair Hiranaga: Pacific Rim Land, Inc., Deputy Director.

Ms. McLean: Thank you, Chair. This is a request for comments from the Commission on the Draft Environmental Assessment prepared by the applicant in support of a Community Plan Amendment for the Kihei rock crushing facility and related improvements on East Welakahao Road. The applicant, in addition to the Community Plan Amendment will also later be coming to the Commission for a District Boundary Amendment, Change in Zoning and County Special Use Permit. Those applications will come after the EA process is complete. I wanna make one

correction on the agenda, under this item, all the reference to the document say Draft Environmental Assessment except for that very last line, it says Draft EIS and that should be EA. It's an Environmental Assessment not an Environmental Impact Statement. Again, the Commission's action today is just to provide comments on the Draft EA. Kurt Wollenhaupt is the Staff Planner.

### **C. NEW BUSINESS**

- 1. PACIFIC RIM LAND, INC. requesting comments on the Draft Environmental Assessment (DEA) prepared in support of the Community Plan Amendment, District Boundary Amendment, Change in Zoning, and County Special Use Permit for the existing Kihei Rock Crushing Facility and related improvements including upgrade of an existing waterline located at 500 East Welakahao Road, TMK: 2-2-002: 078, Kihei, Island of Maui. (EA 2011/0004) (CPA 2011/0001) (DBA 2011/0004) (CIZ 2011/0004) (CUP 2011/0006) (K. Wollenhaupt)**

Mr. Kurt Wollenhaupt: Good afternoon. The application has been duly noted by our Deputy Director today. The trigger for today's review of the Draft Environmental Assessment is the proposal for a Community Plan Amendment that proposal being in the Kihei-Makena Community Plan District. The existing community plan is Agricultural. The requested changes are Heavy Industrial. This is for a project that--and facility that's been in operation since 1979, in continuous operation. However, at this time the applicant feels that a change of zoning would permanatize this operation and Mich Hirano will be giving a Power Point presentation to describe in detail the location, the proposed plan, planning amendment, District Boundary Amendment, change of zoning and also with us today is Blanca Lafolette from Pacific Rim who will be able to answer any specific questions.

Just briefly, and I won't reiterate what Mr. Hirano will say, the Department did attach a letter to this application. The Department's concern would be that any change of zoning needs in our opinion to be looked at in reference to the area in which the operation is. So to allow a blanket change of zoning to M-2 with every single use doesn't seem appropriate in this case. So at the Council level they'll be looking at the change of zoning and most likely recommending conditional zoning that will allow specific uses and the letter from Munekiyo and Hiraga outlines some of the specific uses that they feel are appropriate and the Department feels also in agreement that those uses seem to be appropriate for this area. So Mr. Hirano has a short Power Point presentation to bring you up to date on this project.

Mr. Mich Hirano: Thank you, Kurt. And good afternoon Commissioners, Chair Hiranaga. My name is Mich Hirano with Munekiyo and Hiraga and our firm is assisting the applicant, Pacific Rim Land with the Change in Zoning, Community Plan Amendment, District Boundary Amendment, County Special Use Permit and Change in Zoning and with me today as Kurt has also introduced was Blanca Lafolette, who is project coordinator for Pacific Rim Land. We prepared a Power Point presentation so I'll just like to go through the Power Point presentation and give the Commission, the Commissioners some background to the application and the findings of the Draft Environmental Assessment.

The regional location map is before you on the screen just to orient the Commissioners this is in South Kihei. This is Piilani Highway, old Welakahao Road to the east and to the west of the project site. This is the--the project location of the Kihei rock crushing facility is just adjacent to the Kihei wastewater reclamation facility. That is the Kihei wastewater treatment facility to the north, and the project site is directly to the south of the facility. The project area is 14.5 acres. The surrounding land is basically agricultural land, grazing land that is owned by Haleakala Ranch. The--to the east of the project area is again more agricultural land that is under cultivation by Monsanto for the corn seed operation. To the south is more agricultural land and the new Kihei Police Station is on the other side of Kanani Road. The closest residential properties are on the west side of Piilani Highway, some distance from the project location, but still within the 500-foot boundary of the site. And the reason for that is that when we did the 500-foot boundary map, the parcel was not subdivided at that time and the larger parcel bounds Piilani Highway. This is the project location and the site boundary--the TMK boundary. It's a pretty, it's a square piece of property identified by Parcel 78. It has access from East Welakahao or old Welakahao on its eastern leg. And that access goes up to the Kihei wastewater reclamation facility. Access to the project site is provided by a driveway off of old Welakahao.

The proposed action, basically it's to entitle the land for the current operations. The Kihei rock crushing facility has been in operation for over 30 years, 32 years to be exact. It was originally established with the construction of the Piilani Highway as well as with the Kihei wastewater reclamation facility. It currently operates under State Land Use Special Use Permit and a County Conditional Permit. Those permits are valid until 2016 and 2017, and it provides the operations which entail the rock crushing, the baseyard operations. There's no quarrying on the site. Most of the material is brought into the site and crushed. The applicant is seeking the land use entitlements to just facilitate the long-term use of this area as an industrial area.

In terms of the summary of land use changes to the left of this table is the existing land use designation. At the State level, the State Land Use District is Agricultural, and we are requesting a change and this is the District Boundary Amendment change from Agricultural to Urban. The Kihei-Makena Community Plan designation is Agriculture and we are requesting a Community Plan Amendment to change the land use designation from Agriculture to Heavy Industrial and this is the trigger for the Environmental Assessment. It's the change to the community plan. And the Maui County Zoning, we are requesting a Change in Zoning from the Agricultural District to the M-2, Heavy Industrial District. Just as a note of information, in the M-2, Heavy Industrial District rock crushing is still considered a special use. So as part of our application, we are requesting a County Special Use Permit for the rock crushing operation. So even after they change the zoning, the application will come back to the Planning Commission for the Special Use Permit.

Although the intent of the applicant is to maintain the existing operations because they foresee that the baseyard and the rock crushing facility will be needed in South Maui for future construction projects because of the change in zoning to M-2, Heavy Industrial, and because the M-2, Heavy Industrial has quite a range of uses that may not be appropriate for the site, the applicant has restricted the type of uses that they are proposing to the--for the M-2 District. We've listed those, and they are included in your letter. So we have the M-2 permitted uses on there, lumber yards, machine shop, concrete/cement products, manufacture, factories and junk establishments. Under the special uses, and these will be special uses that the Planning Commission will have to approve



for--to a County Special Use Permit even after the M-2 zoning change has or--if it is approved, would have to come back to the Commission for approval and that's asphalt manufacture of refueling and asphaltic concrete plant, rock, sand, gravel, earth excavation, crushing or distribution, explosive manufacturer or storage, saw mill. And then as well, because the M-2 allows uses that are in the M-2 District, B-1, B-2, and B-3 Zoning Districts, we've also included and limited the use under the M-2 change in zoning to uses such as the equipment rental and sales yard, storage buildings and warehouses, storage yards, trucking and truck storage and accessory office uses. And we feel that these uses are compatible to the area and that they do not offer anymore impact than the type of uses that are currently existing at the site.

In terms of the, the, the site plan for the rock crushing facility, the driveway entrance off of Old Welakahao is in this portion of the site. There is a office building, administrative office area, a weigh station to weigh as trucks leave the site so that they know the quantity of aggregate that's on, on the load. There is a, a roadway that goes right around the site. This is just a gravel roadway, but the basic operations and flow is that trucks come in with raw material which is basically excavated material from other parts of Maui where construction activity is taking place and they stockpile the material in this location and that in this location they drive around and they leave the property. The rock crushing plant is located in approximate this location and the rock crushing plant crushes the rock--from the material, crushes the plant and then stockpiles the raw material in various areas along the site.

There is a baseyard operation where trucks, equipment and other materials are stored on the site and that happens in about this location. I'd just like to point out there is an existing or an exit driveway if you recall from the regional site plan, the Kanani Street is to the south of the subject property and Kanani Street is a signalized intersection so for trucks exiting the property and going to South Maui, Wailea and Kilohana and Makena, they will use the southern exit and the signalized intersection to make that turn. Although they can also the make the turn on old Welakahao.

This is just some pictures of the property. This is the driveway entrance into the site. The site is a, there's a fencing all around the site. This is the raw material stockpile and as you can see it's, it's composed of fill and construction material that is brought to the site. This is the administration office. Right now there are approximately 20 employees at the site. As you can see, I'd just like to point out that this is a photovoltaic panels on top of the administration building. These panels generate approximately \$20,000 per year of electricity as a cost savings. Goodfellow Brothers is certainly moving in the, you know, the alternative energy conservation sustainable development with their projects and they put this PV system on the, on the property. This is the southern portion of the site looking mauka or looking up towards Haleakala. These are stockpiles of raw material or the aggregate material that's crushed. This is part of the crushing machinery. And the crushing only takes place approximately four months of a probably three to four year cycle depending on the construction activity. The site crushes approximately 100 ton and then that is stockpiled and then used for construction material over the course of the period and it's, you know, it stays for quite a while. They don't use that material overnight. It's probably, as I said, the last operation was in 2009, when they started--when they were crushing material. Again, this is a dismantled part of the rock crushing equipment, the conveyor belts and this is part of a stockpile of the aggregate that's crushed.

We did the flora, fauna analysis, the biological resources survey was carried out. No rare or endangered plants or animals identified around the subject property. As you can see the project area was quite altered from the existing operations. Archaeological resources was carried out. Scientific Consultant Services did a Archaeological Inventory Survey. Only now slivers of unaltered land were observed and no burial features or human remains were discovered on the site. The Archaeological Inventory Survey covered the surrounding area to the project site because Pacific Rim Land purchased this land from Haleakala Ranch and prior to the purchase they carried out the Archaeological Inventory Survey. There was a historic site identified. It was a concrete reservoir related to former cattle ranching use. The State Historic Preservation Division determined that the project would have no effect on significant historic sites. A Cultural Impact Assessment was carried out which is included in your Environmental Assessment package. We interviewed long-term residents of the area. I think the comments were that the area looked similar to the surrounding pasture lands today and no impact to cultural practices or resources were anticipated or are anticipated from the proposed action.

Infrastructure, there is a private water system that is from the mauka landowner. Wastewater is pumped to the Kihei wastewater reclamation facility and there is R-1 water from the Kihei wastewater reclamation facility that is brought onto the site and that's used for dust control and irrigation. Drainage, drainage and system improvements were carried out on the property which are in compliance with the Department of Public Works Design of Storm Drainage Rules. On site drainage basin has a 1.3 acre feet capacity and it will hold--the volume will handle a 50-year storm for the one-hour duration about twice the capacity that's required by the drainage rules.

This is a photo, aerial photo of the project area. This is the Kihei rock crushing facility. This is the, the County wastewater reclamation facility, old Welakahao Road. There is an agricultural road that's not on this prop--on this photo but it does go to the south and goes to this intersection which is Kanani Street which is a signalized intersection. So southbound traffic goes along this agricultural road to Kanani Street and then does a left turn at the signalized intersection. The applicant, as well, during the earlier Conditional Permits and State Special Use Permit carried out roadway improvements at the Welakahao intersection. There is a left-turn pocket on the southbound lane on Piilani Highway into the property and as well, there is an median acceleration lane for southbound traffic that exits old Welakahao and goes down Piilani Highway.

Traffic assessment was carried out for the Change in Zoning, Community Plan Amendment request before you today. And I mentioned the roadway improvements that were done with the Conditional Permit and Special Use Permit. In terms of traffic, there's a Traffic Warrant Study carried out every two years as a condition of the Special Use Permit and Conditional Permit, and traffic in 2010 was the last Traffic Warrant Study and this is to just monitor the intersection at old Welakahao and Piilani Highway to see if traffic signals are warranted at that intersection. The study concluded that no traffic impacts are anticipated and that the intersection operates at acceptable levels of service. However, in terms of future uses and this is where the applicant would be amenable to looking at this in the future, if there's any change in the use that is proposed for the project area or at subdivision of the subject property, the applicant proposes to carry out a Traffic Warrant Study to determine the Level of Service and potential impacts to the intersection. The Environmental Determination was a Anticipated Finding of No Significant Impact. So that is our presentation and we're ask--answer any questions that you may have or receive comments on the Draft

Environmental Assessment. Thank you.

Chair Hiranaga: Thank you. At this time, is there anyone from the public that wishes to provide testimony at this time? Please come forward and identify yourself and limit your testimony to three minutes. Seeing none, public testimony is closed. Is there--I'll open the floor to questions from the Commission? Commissioner Mardfin?

Mr. Mardfin: Mich, you have been doing a Traffic Warrant Study every two years?

Mr. Hirano: Yes.

Mr. Mardfin: If you get what you're asking for here will you still do a traffic warrant study every two years or will it just be when things change?

Mr. Hirano: When things change is what is the applicant is proposing.

Mr. Mardfin: So you might not do anything for--no Traffic Study for 20 years potentially?

Mr. Hirano: Potentially, yes.

Mr. Mardfin: Thank you.

Chair Hiranaga: Just a follow up, the Traffic Study is for the Welakahao intersection?

Mr. Hirano: Yes, the old Welakahao intersection, yes.

Chair Hiranaga: The existing dirt farm road, does the applicant have a formal easement over that land or is it casual use?

Mr. Hirano: No, it has a formal easement over that land, yes.

Chair Hiranaga: To access to the ...

Mr. Hirano: To access into Kanani Street, yes.

Chair Hiranaga: Commissioner Wakida?

Ms. Wakida: Good afternoon. Is there anyone here from the rock crushing facility that is an employee there or knows about its operations?

Mr. Hirano: No, we didn't have anyone from the rock crushing facility today. We're just receiving comments on the Environmental Assessment, but if there's any questions, we could maybe answer them.

Ms. Wakida: Well, it's leading to a comment or a concern on the, on the location. You visited this facility, I assume?

Mr. Hirano: Yes, we were involved with the original State Land Use or County Special Use Permits and the Conditional Permits and I've been to the site and I've seen the site over five years.

Ms. Wakida: Okay. I have a question on Page 50 of your--it says, "the Urban Growth Boundary Map."

Mr. Hirano: Yes.

Ms. Wakida: It says, "Proposed Urban Growth Boundary."

Mr. Hirano: Yes.

Ms. Wakida: That's for the --

Mr. Hirano: Maui Island Plan.

Ms. Wakida: Yeah, that new one coming up. What approximately is the distance going south from the project site to that wedge that comes up, that pink wedge that comes up in the bottom approximately?

Mr. Hirano: That pink wedge I think would be Maui Meadows. Would that be Maui Meadows? Because everything else is zoned Ag in that area. I would say that that the Maui Meadows would be about a mile and a half, a mile, a mile and a half?

Chair Hiranaga: No, I believe Maui Meadows is further down.

Mr. Hirano: That is the County Regional Park. So that's not very far at all.

Ms. Wakida: That's the what--I'm sorry, you said?

Mr. Hirano: Is the County--It's the County Regional Park lands where the Police Station is located. So that is a few hundred yards, about a few hundred yards.

Ms. Wakida: My, my concern is through no fault of the rock crushing facility, the Urban area has grown up around them and I'm just wondering the impact that this will have on future urban development that that creeps up into that proposed Urban Growth Boundary area.

Mr. Hirano: ...(inaudible)...We made representation to the--Advisory Planning--was it the Advisory Planning Council?

Chair Hiranaga: Committee.

Mr. Hirano: Committee for the Maui Island Plan and I think the rationale was that although there was urban boundaries mauka of that area that it didn't include industrial uses that would eventually be needed to support further Urban expansion. And I think on that basis, the Maui Long Range Planning Division felt that it would be appropriate to have urban uses mauka of that area in the

Urban Boundary for Industrial uses.

Ms. Wakida: Okay, thank you.

Chair Hiranaga: The Deputy wishes to comment.

Ms. McLean: Thank you, Chair. On the one hand, I would caution the Commission in giving consideration to this plan that has not yet been adopted. Although it is important for informational purposes for the maps to be included in the Draft EA, it still is just a draft. At the same time though, the Department is looking at how these--there's very specific criteria that created these proposed boundaries. We are looking at those though to try to smooth out and square off some of these lines so that we don't have these irregular shapes. So the Department would be proposing, this is just a generalization for time being that there not be this little finger of Urban sticking into this surrounding non Urban, it would be squared off so that all of that would be within the proposed Urban Growth Boundaries. I'm not saying specifically at this site, but in general, we're not gonna be seeing these kinds of jagged lines. It's gonna be a smoother line squaring it all off and, and the Department would support including this facility in the Urban Growth Boundaries.

Chair Hiranaga: Commissioner Wakida, did you want your question be an official request for information because this is a draft EA and they are looking for comments--are hoping for comments?

Mr. Hirano: Receiving comments.

Ms. Wakida: My, my concern is as the community expands in this area that, I mean it would be terrible to all of a sudden have a rock crushing facility right in the middle of a neighborhood. So, my interest is maybe a little closer look at the what the proposed area is--the long range plans for it. I know that we've got something here, but not a lot.

Mr. Hirano: As the Deputy Director mentioned, the Maui Island Plan is in draft right now.

Ms. Wakida: True. I understand.

Mr. Hirano: --the surrounding, the surrounding land uses right now are Agricultural.

Ms. Wakida: Yes.

Chair Hiranaga: The rock crushing facility has been in operation at that site for 32 years, so it's been sort of there for a long time. I think people who moved into the area realize what is there.

Ms. Wakida: Yeah. Thank you.

Chair Hiranaga: And also, I'd like to comment that the Kihei wastewater treatment plant is right next to the rock crushing facility and it's been there for 40 years. So I believe it was there first and most of the people that live there in Kihei now. And then directly north of the wastewater treatment plant is a golf course. Commissioner Sablas?

Ms. Sablas: I just wanted to make a comment because from this map, I can actually point out my home of 32 years and I've never been--you know, I mean, I knew that was up there. It's never impacted our neighborhood at all.

Mr. Hirano: Thank you for your comment.

Chair Hiranaga: Where is your home?

Ms. Sablas: I can see it on this map.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: Can you explain to me the reason for going for this change, these changes? I mean, it seems to me that it's been successful for 32 years, why change now?

Mr. Hirano: I think, you know, there's always the renewal. coming back for the renewal, going to the Council for the renewal for the Conditional Permit. So to get the land, appropriate land entitlements seem to be the logical thing to do.

Mr. Mardfin: You said, you're gonna still need, what? A Special Use Permit?

Mr. Hirano: County Special Use Permit for the rock crushing.

Mr. Mardfin: You won't have to go to the Council for that?

Mr. Hirano: No, that would be a Commission action. There is the possibility that--there's a possibility that there--before this Change in Zoning is finalized that the County Council may adopt an M-3 Zone, a new M-3 Zone which would preclude--which would allow as a permitted use rock crushing in the M-3 Zone. During the comment period, the Planning Department early consultation did provide a comment that about the M-3 Zone may be being the appropriate zone for the current activity. However, when we made the application the M-3 Zone was not approved at that time so that still may be a possibility. We really don't know what the logistics will be since we've already applied for the M-2 Zone, but that would be a consideration which would not--which would preclude the need for a County Special Use Permit for the rock crushing facility.

Mr. Mardfin: But then you'd be back to us for a change from M-2 to M-3?

Mr. Hirano: Yes, or if in the process before it goes to Council and before it comes back to the Commission if the M-3 Zone was approved that might be an option, and we would explore that with the Planning Department on, you know, the logistics of making that kind of change.

Chair Hiranaga: Commissioner Freitas?

Mr. Freitas: Yeah, question for Public Works. Are they looking forward to expanding that Kihei wastewater plant there because then that could turn into like a enterprise zone?

Mr. Lance Nakamura: Wastewater is now under Department of Environmental Management. I wouldn't have any knowledge on that.

Mr. Freitas: Thank you.

Chair Hiranaga: I'm not sure if this is appropriate for a Draft EA, but are there procedures to--when trucks are leaving the site to prevent debris falling onto Piilani Highway?

Mr. Hirano: There is. They do have protocols that they follow. They do have wash down to keep the dust--they wet the area for dust control. When trucks leave the site, if there are possible wind blown debris that they would cover the trucks, and they will also wash--or wet them down to hold the dust down.

Chair Hiranaga: How 'bout gravel falling off of the trailer as it's exiting or entering Piilani Highway? You know, sometimes the gravel gets stuck in the tires and as you start to accelerate they're dislodged.

Mr. Hirano: That was as well discussed. They do have when they leave the site, they have this gravel apron that they go over, you know, that's kinda I guess is used to kinda hold, hold it, to stabilize the material that's on the truck and also to prevent it from picking up things.

Mr. Freitas: I'd like to make a comment.

Chair Hiranaga: Commissioner Freitas?

Mr. Freitas: I hold a PUC license and we are responsible for all debris falling off of the trucks and off of the tires and your loads must be covered.

Chair Hiranaga: Understood, but when your windshield gets cracked, sometimes it's difficult to track the trucker down.

Mr. Freitas: A lot of that rock get picked up from the highway itself. We just had one of our trucks the other day, guy got a rock kicked up ...(inaudible)..from an automobile.

Chair Hiranaga: Any other questions or comments regarding the Draft EA? As far as accel, decel lane northbound, is that part of the zoning process determining if that's required or not 'cause I know you have southbound accel and decel lanes?

Mr. Hirano: I mean it could be through Special Use Permit or Change in Zoning.

Chair Hiranaga: So maybe that could be addressed in the Draft EA?

Mr. Hirano: ...(inaudible) not, it's required?

Chair Hiranaga: Yeah.

Mr. Hirano: Okay. Northbound acceleration lanes from old Welakahao?

Chair Hiranaga: Right. And northbound decel coming from Wailea.

Mr. Hirano: Okay.

Chair Hiranaga: Commissioner Wakida?

Ms. Wakida: This is just clarification. You use the term "sump" in here, "a sump."

Mr. Hirano: A sump.

Ms. Wakida: In drainage. Is that the same as a retention basin?

Mr. Hirano: It's a lower piece of property.

Ms. Wakida: So it's above ground, yeah.

Mr. Hirano: Yeah.

Ms. Wakida: Thank you.

Chair Hiranaga: Are we ready for a motion? Floor is open to a motion if there's no further comments or questions regarding the Draft EA.

Mr. Mardfin: Mr. Chairman, what sort of a motion, isn't it just for comments?

Chair Hiranaga: We accept the draft with comments. You know, if you have additional comments like my one question about the accel north--so that needs to be part of a--the Commission's comments. It needs to be, I guess, approved by the Commission to be addressed in the Draft EA.

I typically take a vote on all of those requests for additional information.

Mr. Freitas: I move to accept the EA.

Chair Hiranaga: Draft EA.

Mr. Freitas: Draft EA.

Chair Hiranaga: Is there a second? Second by Commissioner Shibuya and I guess, Kurt you wanna go over the specific requests?

Mr. Wollenhaupt: It would appear that we have two comments. One would be take a look at the long range plan for this future area and any potential effects of development and the interconnection with the rock crushing facility and proposed long range plans. And the second would be review the potential impacts for a northbound acceleration and a northbound deceleration



on East Welakahao Road and what this may, how this might impact the facility or be necessary. So it was a --those were the two that I came away with.

Chair Hiranaga: On Piilani Highway.

Mr. Wollenhaupt: On Piilani Highway.

Chair Hiranaga: Ready for the vote? Commissioner Mardfin?

Mr. Mardfin: Is the motion to accept the Draft EA?

Mr. Freitas: Yes sir.

Mr. Mardfin: I'm gonna have to vote against that. If you wanted a motion to refer the comments to them that's one thing, but to accept the Draft EA is a very different thing entirely in my mind at least.

Chair Hiranaga: Clarification Deputy Director. Are we--procedurally going forward in the proper manner accepting the Draft EA so they may now prepare the Final EA?

Ms. McLean: What's posted on the agenda is providing comments on the Draft EA.

Chair Hiranaga: We're the accepting authority though, right?

Mr. Mardfin: Of the Final EA.

Ms. McLean: That would be the Final EA that the Commission would accept, so...

Chair Hiranaga: So we would not accept the Draft EA?

Ms. McLean: Correct. Today you're providing comments so that when the Final EA does come to you, the comments that you raised today should be addressed in the final, and at that time, you can move to accept it.

Chair Hiranaga: But these are comments from the Commission as a whole and not from individual Commissioners so the Commission would have to vote on the comments they want to forward to the applicant?

Ms. McLean: Correct. That's the motion that the Commission is agendized to take today which is providing its collective comments as a Commission.

Chair Hiranaga: Okay. So the maker of the motion if you'd like to revise your motion to forward these two requests for additional information to the applicant?

Mr. Freitas: So move.

Chair Hiranaga: Secunder agrees?

Mr. Shibuya: Second agrees.

Chair Hiranaga: Any more discussion? Seeing none, all in favor, please raise your hand.

Ms. McLean: That's seven ayes.

Chair Hiranaga: The motion carries.

**It was moved by Mr. Freitas, seconded by Mr. Shibuya, then**

**VOTED: To Forward the Two Comments as Discussed by the Commission to the Applicant to be Addressed.  
(Assenting - J. Freitas, W. Shibuya, I. Lay, D. Domingo, L. Sablas,  
P. Wakida, W. Mardfin)  
(Excused - K. Ball)**

Mr. Hirano: Thank you, Commissioners.

Chair Hiranaga: Agenda Item E, Deputy Director.

Ms. McLean: Thank you, Chair. You have Action Minutes for the October 25, 2011 meeting.

**E. ACCEPTANCE OF THE ACTION MINUTES OF THE OCTOBER 25, 2011 MEETING**

Chair Hiranaga: Motion to accept the minutes of October 25, 2011? So moved by Commissioner Shibuya, seconded by Commissioner Wakida. Any comments or corrections? Seeing none, I'll call for the vote. All in favor say, "aye."

Commission Members: Aye.

Chair Hiranaga: Opposed? Motion carries.

**It was moved by Mr. Shibuya, seconded by Ms. Wakida, then**

**VOTED: To Accept the Action Minutes of the October 25, 2011 Meeting.  
(Assenting - W. Shibuya, P. Wakida, J. Freitas, I. Lay, D. Domingo,  
L. Sablas, W. Mardfin)  
(Excused - K. Ball)**

Chair Hiranaga: Agenda Item F, Director's Report, Deputy Director?

Ms. McLean: Thank you, Chair. The first item under the Director's Report is from the Planning Director notifying the Commission of the Director's intent to process a time extension request administratively for the Paradise Ridge SMA Use Permit time extension. I'd like to make a

correction on the agenda. It states the time extension request is for the period to initiate construction and actually that should read to complete construction. Construction was initiated in March 2006. So the request today is for the Commission to--the request today is for the Commission to acknowledge receipt of the request and decide whether to waive its review of the time extension request or review the request at a future meeting. Ann Cua is the Staff Planner.

#### **F. DIRECTOR'S REPORT**

- 1. Planning Director notifying the Maui Planning Commission pursuant to Section 12-202-17(e) of the Maui Planning Commission's SMA Rules of his intent to process the time extension request administratively on the following:**

**MR. GLENN RICHARDSON, General Partner of PARADISE RIDGE LIMITED PARTNERSHIP requesting a Special Management Area Use Permit time extension until March 31, 2013 on the period to initiate construction of the Paradise Ridge Estates Project, a 32-unit condominium complex with swimming pool and related improvements at 2757 Kihei Road, TMK: 3-9-004: 132, Kihei, Island of Maui. (SM1 2001/0010) (A. Cua)**

Ms. Ann Cua: Mr. Chairman, Members of the Commission. Most of you may be familiar with the Planned Development process, but just wanted to very briefly take you through it because there has been a change that has gone through you and has actually been approved. So the Planned Development process includes three, three basic steps. The Step 1 and 2--

Ms. McLean: Paradise Ridge.

Ms. Cua: Oh, am I on the wrong one? I'm sorry. Oh, yeah, sorry wrong one.

Chair Hiranaga: We are listening.

Ms. Cua: Good. Okay, sorry. For Paradise Ridge, I'm sorry, the SMA extension. This--the Planning Commission approved this project September 2005. They filed this extension March 16, 2011. This project initially had an intervention filed. It was granted by the Commission, went through a contested case hearing, and so what the Planning Commission Rules say on intervention is if there was intervention filed that if, if, if an applicant wants to change the permit conditions in any way, a public hearing needs to be held unless the applicant is able to secure a waiver, a Notice of Waiver from the intervenors of the public hearing. Well, on March 29 and 31<sup>st</sup> of this year, the applicant did receive notices, Notices of Waiver of the Public Hearing from the intervenors. Okay, May of this year, the applicant submitted an updated compliance report on this project which was approved, approved by the Department in October and in September, the applicant submitted supplemental information on the project including the reasons for the time extension request, the length of the time extension, any changes that couldn't--could have affected environmentally or ecologically or infrastructure and there basically were none in the area. They submitted an updated Drainage Report dated August 15, 2011, and a valid insurance certificate. As our Deputy mentioned, the project was initiated, the project construction was initiated on March 31, 2006. Construction at that time included an 8-inch water main pipeline, and the applicant

is requesting that the Planning Department approve a two-year time extension. So we are before you asking for you to either waive your review and we need to come back.

Chair Hiranaga: Does the applicant wish to comment? Open the floor to public testimony. Is there anyone here that wishes to provide testimony regarding this agenda item, please come forward? Seeing none, public testimony is closed. Is there anyone--Commissioners, open the floor to questions to the Department or to the applicant? Commissioner Mardfin?

Mr. Mardfin: I'd like to ask the applicant. One of the conditions for a time extension is a reason and you say that the project was initiated March 2006 with a partial installation of the waterline. Your second was that there's been a slowdown in global conditions in the last three years that's since 2008. What happened--what have you accomplished between 2006 and 2008?

Ms. Gwen Hiraga: As Ann mentioned, that they did initiate the construction of a waterline and there were some comments from the Department of Water Supply which require Plan Review changes. So that portion stopped. In addition, on the Building Permit application there were some comments from the Department of Public Works and other agencies, and since then they have not pursued it because of financing and other reasons.

Mr. Mardfin: Because of financing they can't pursue the Building Permit?

Ms. Hiraga: At that time, they have their architects working on the plans, but they have not resubmitted. They're gonna wait until the market conditions pick up because the pricing that he had anticipated has gone down according to the applicant by 20 to 30 percent, and yet the cost construction has not reduced by, you know, a close or similar amount since the market conditions, you know, and as we all know, the market conditions have not improved since 2008, even to the current time.

Mr. Mardfin: Actually they have improved some, but I won't argue with you about it.

Chair Hiranaga: Please identify yourself?

Ms. Hiraga: I'm sorry. I'm Gwen Hiraga representing Paradise Ridge Estate.

Chair Hiranaga: Just for clarity in the revised Drainage Report, it says 100 percent surface runoff will be retained on site. So that's post and--pre and post development?

Ms. Hiraga: Yes, and the project engineer is here if you ...

Chair Hiranaga: No, I'm just confirming that pre and post.

Ms. Hiraga: Yeah.

Chair Hiranaga: Because it appears civil engineers use different terms. It's not a industry standard so I just wanted clarification.

Ms. Hiraga: And I think he should respond to that since he prepared the report.

Mr. Wayne Arakaki: Name's Wayne Arakaki, engineer. Yes, on the Drainage Report, the drainage system that was proposed will take care of everything that's runoff on the site after the improvements are done.

Chair Hiranaga: So it's post development? Everything, 100 percent, surface runoff.

Mr. Arakaki: Hundred percent. That's right.

Chair Hiranaga: Thank you. Any other questions for the applicant or the Department? Seeing none, I'll open the floor to a motion.

Mr. Shibuya: I'll just--no, I just had a question in terms of how far away from the shoreline is this and where is it located?

Ms. Cua: It's actually mauka of, of South Kihei Road. I don't know the exact distance and actually it's a pretty long driveway.

Chair Hiranaga: There is a site map in the report.

Ms. Cua: I forget the name of the project right in front of it. Hale Kamaole is right in front of it. Maui Kamaole is to the right. Maui Court and Kamaole Beach Park is located across the street.

Chair Hiranaga: If there are no further questions from the Commission, I'll open the floor to a motion.

Ms. Cua: Is there testimony?

Chair Hiranaga: I did already.

Mr. Shibuya: Yeah, you did.

Mr. Freitas: I move that we waive review.

Ms. Domingo: Second.

Chair Hiranaga: Motion to waive review, seconded--motion by Commission Freitas, seconded by Commissioner Domingo. Discussion? Commissioner Mardfin?

Mr. Mardfin: I suppose it doesn't make much difference but I'm gonna vote against this. I think they've got a really, really, really weak set of reasons for wanting this. I think in the two years before the downturn started they could have done a whole lot more and it sounds like they've just put it into the refrigerator since that and haven't pursued the permits and the rest of the stuff. So I, I don't think they should get the extension actually. So I'm gonna vote against waive of review of the extension.

Chair Hiranaga: Commissioner Wakida?

Ms. Wakida: I have a similar concern. I am gonna vote in favor. However, I hope I don't see this project come before this Commission again because it needs to get completed or not and do something else.

Chair Hiranaga: Any other discussion? I'll call for the vote--Deputy Director, if you'll repeat the motion for clarity?

Ms. McLean: The motion is for the Commission to waive its review and allow the time extension request to be approved administratively.

Chair Hiranaga: All in favor of the motion, please so indicate by raising your hand.

Ms. McLean: Five ayes.

Chair Hiranaga: Opposed?

Ms. McLean: Two noes.

Chair Hiranaga: Motion carried.

**It was moved by Mr. Freitas, seconded by Ms. Domingo, then**

**VOTED: To Acknowledge Receipt of the Request and Waive Its Review of the Time Extension.**  
**(Assenting - J. Freitas, D. Domingo, I. Lay, L. Sablas, P. Wakida)**  
**(Dissenting - W. Shibuya, W. Mardfin)**  
**(Excused - K. Ball)**

Ms. Cua: Thank you.

Chair Hiranaga: Moving onto Agenda Item F-2, Deputy Director.

Ms. McLean: Thank you, Chair. The second item is--makes a similar request of the Commission for the Commission to consider waiving its review. This is for Step 3 Planned Development Approval for the Andaz Resort and Residences in the Wailea Resort area. Again, you have Ann Cua as your Staff Planner.

**2. MR. WILLIAM SPENCE, Planning Director notifying the Maui Planning Commission of his intent pursuant to the provisions of the Chapter 19.32, as amended, of the Maui County Code to approve the following Step 3 Planned Development request:**

**KOBAYASHI GROUP, LLC requesting a Step 3 Planned Development Approval for the Andaz Resort & Residences (formerly 1 Resort and Residences) project including the improvements to the County's Ulua/ Mokapu Beach Park at 3550 and 3572 Wailea Alanui Drive, TMK: 2-1-008: 067 and 88, Wailea, Island of Maui. (PD3 2011/0001) (A. Cua)**

Ms. Ann Cua: Now I can talk about Planned Developments. As, as many of you may recall earlier this year you were asked to review an amendment, a number of amendments to the County Code. One affected the Planned Development processing. Previous to this amendment, the Planning Commission would have to review and approve all three steps of the Planned Development Approval process. With the April 15, 2011 amendment, relative to the Phase 3 portion it reads, and I'm reading from Ordinance No. 3825, Bill No. 18, "The Planning Director shall review the Step 3 unified site and building program and shall notify the Commission of the Planning Director's review. The Commission may review and take final action on the Step 3 unified site and building program or waive its review and allow the Planning Director to take final action."

So we have conducted our review. You have been forwarded the, the plans that are proposed for development and you've been given basically two sets of plans, and if you look on the left side of the sheet you'll see what is, what was previously approved at the Phase 2 level, and then what is proposed. And I do wanna point out that after you gave your approval in 2009 for the Step 2 plan which is almost what you see here, the applicant came in in 2011 and asked for some design modifications to go from the 1, 1 Resort Residences to the Andaz Resort and Residences. And so we looked at some modifications to the Lagoon Restaurant and Bar, the spa pool, pool and water features, relocated fitness center and condo building, and we actually took the plans to the -- are you confused?

Mr. Mardfin: I don't have that material, I don't believe.

Ms. Domingo: No, it's the one she put on your desk.

Ms. Cua: Oh, there it is, it's folded.

Mr. Mardfin: This?

Ms. Cua: Yeah.

Mr. Mardfin: You said there was some stuff where they listed things, where did they list it?

Ms. Cua: I'm sorry, what were you talking about listing?

Mr. Mardfin: Didn't you say there was a list of--I thought you said there was a list of things that were changes.

Ms. Cua: Oh, oh, okay. What I'm explaining, what I'm explaining to you is that from what you're seeing what was previously proposed to what's proposed now, in 2009, you originally approved the project through a Phase 2 Planned Development.

Mr. Mardfin: ...this?

Ms. Cua: Yes, yes.

Mr. Mardfin: Okay.

Ms. Cua: And then the, and then the proposed is when the--the 2011, that's when they came into the Planning Department, asked for some minor changes to the project and that's kinda what I was going through. But if you look at the plan, it's pretty much the same plan except the pool area looks more opened. And what we did was we took this proposed plan to the Urban Design Review Board and they actually felt this was a much better plan. So now the applicant is coming in with construction drawings to implement this, this design right here which is the 2011 renderings. But the reason why we're, we're showing you what was done in 2009 because one of the Commissioners had contacted us and said, you know, we wanted to see what was originally, you know, proposed and, you know, where they're at right now. And so basically what they're coming in with, with the construction drawings are in accordance with the most recent approved plans and so this is what is actually going to be built on the site.

Mr. Mardfin: Thank you. At least I understand what's going on.

Ms. Cua: Okay. Sorry about that. And then in addition to the, the rendering, we've also provided a site plan which was what you approved in 2009, and what came through the Department in 2011 and what is, what the construction drawings refer to today, the 2011 site plan.

Chair Hiranaga: Thank you. Do the--does the applicant wish to provide any comments?

Mr. Alton Wong: No thank you.

Chair Hiranaga: At this time, I'll open the floor to public testimony. Is there anyone here that wishes to provide testimony on this agenda item, please come forward and identify yourself?

Ms. Cua: Before you call them up, I just wanted to point out that I did distribute one letter that we received today to you and I believe that's the testimony you're gonna receive now.

Chair Hiranaga: Please identify yourself and limit your comments to three minutes.

Mr. Ben Sadoski: Thank you, Commissioners. My name is Ben Sadoski. I'm with Unite Here Local 5. We've already submitted written testimony so I'm not gonna read through it all, but in the written testimony we argue that a Supplemental Environmental Assessment is necessary in order to study the environmental impacts in a comprehensive manner. There was an EA done in 2006, but that was the final one that was done and significant changes have taken place since. So we ask you not to move forward with this project until this application or with processing this application until the supplemental is done. But if the Commission does intend to move forward, we would ask that you please put the matter to a public hearing. Thank you.

Chair Hiranaga: Questions for the testifier? Commissioner Mardfin?



Mr. Mardfin: What are the major changes that you perceive here?

Mr. Sadoski: Well, from the Environmental Assessment some of the major changes include that the hotel is no longer--this is the former Renaissance Wailea. The original plan included demolishing the main hotel structure and building a smaller structure and a number of other structures as well, but that is no longer part of the plan. They're, they're keeping the original hotel structure as well as building a number of other condominium buildings one of which would be up to I believe 55 feet in height.

Mr. Mardfin: Can you show me or describe where on the--I see previous it was approved, I see proposed except for the pool area, I don't see any changes.

Mr. Sadoski: Well, for the--I believe for the Final Environmental Assessment that was done back in 2006, when the project was conceived as the Baccarat Wailea, and at that time they were considering demolishing the entire hotel structure, the existing hotel structure.

Mr. Mardfin: Is that what was--was what we approved previously? This was a demolish and rebuilt?

Chair Hiranaga: No, you should allow him to finish his statement.

Mr. Sadoski: Yes, I believe that's correct. That's my understanding.

Mr. Mardfin: Ann?

Mr. Lay: I have a question

Ms. Cua: Okay, I can, I can clarify. This project initially started back in 2005, and he is correct in that initially they were proposing a demolition. Demolish the hotel and start brand new and you did review that and you approved that. The Environmental Assessment that was triggered at that time was because they were wanting to demolish the Mokapu wing which was in the shoreline setback area. And at that time, the Shoreline Setback Rules did not allow for demolition in the shoreline setback area without going through an Environmental Assessment so they to go through this whole Environmental Assessment for that. Since that time, the rules were amended, changed because we want to be able to support removing buildings out of the shoreline setback area and so now there is an exemption provision in the law. So if, if anybody was coming in today to demolish a structure in the shoreline setback area, that would not be a trigger for an--to comply with Environmental Impact Statement. So yes, they did prepare that. It's sort of a moot issue because what triggered the Environmental Assessment at that time is not a trigger any more because the rules have been amended. Why I brought up the 2009 plan is because that was the most recent plan that this Planning Commission reviewed and this is the 2009 plans, the previous. I didn't go into the 2006 because you passed that in 2009 when they came in for the amendment.

Mr. Mardfin: So we approved this in 2009?

Ms. Cua: You approved in 2009.

Mr. Mardfin: If there were any--there were no objections at that time that we needed a new--

Ms. Cua: There were no interventions.

Mr. Mardfin: --EA?

Ms. Cua: No, no, no there was no trigger. By that time, the rules had been changed.

Mr. Mardfin: So you don't need to do a new Environmental Assessment.

Ms. Cua: No.

Mr. Mardfin: And we had approved these plans, and I see little precious little distinction between previous and proposed.

Ms. Cua: Yeah, we --

Mr. Mardfin: Except in the pool area.

Ms. Cua: Yeah, when they, when they came in, when they came in in 2011 with some minor design changes, you know, even though it looked essentially the same we wanted to be conservative so we took it to the Urban Design Review Board. They actually liked the proposed rendering better because they felt it gave it more of an open feeling. The important thing to note that when the Department supported that amendment request was that they were not, and I'll read --

Chair Hiranaga: Actually Ann, can I ask you to hold that because we're still into public testimony. We kind went off to a tangent here.

Ms. Cua: Okay.

Chair Hiranaga: So if there's any more questions for the original testifier? Commissioner Lay?

Mr. Lay: I have a question. So you are a representative of Local 5?

Mr. Sadoski: Yes. that's right.

Chair Hiranaga: Please speak into the microphone.

Mr. Sadoski: Yes, that's correct.

Mr. Lay: Under--what would you be titled as?

Mr. Sadoski: Research Analyst.

Mr. Lay: Research Analyst with Local 5. Okay.

Chair Hiranaga: Any other questions for the testifier? Seeing none, anyone else wishes to provide public testimony at this time? Seeing none, public testimony is closed. Now Ann, you can continue.

Ms. Cua: Thank you. I just wanted to read from the approval that the Department did in February of this year. We concluded that the design modifications represented no change in the unit count or the total floor area and the overall architecture remained unchanged. The proposed modifications improved the openness of the pool area and although the modifications are intended to add to the services of the resort there will be no increase in the resort capacity.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: Is the problem that this building isn't being torn down and rebuilt? I mean, is that--in the original 2006 or whatever it was, was this proposed to be torn down and rebuilt?

Ms. Cua: When, when it was originally proposed, yes, the whole building was proposed to be torn down. What triggered the Environmental Assessment, however, was not the whole building, only what was in the, in the shoreline setback area.

Chair Hiranaga: Ann, just for clarity so, you know, I've been here since the beginning of this, so did the Baccarat Hotel receive an SMA Permit? The applicant seems to be nodding in affirmative.

Ms. Cua: Yes, I think that was the first.

Chair Hiranaga: And then 1 Resort and Residence Wailea, they probably came in for a transfer of the SMA Permit.

Ms. Cua: And the modifications. That was, that was 2009.

Chair Hiranaga: And the Planning Commission reviewed it, they waived --they reviewed it.

Ms. Cua: And that's the--and that's the plans that you see as previous.

Chair Hiranaga: Correct. And then in 2011, they came in for another transfer of ownership of the SMA Permit and we reviewed it again and granted --

Ms. Cua: The Planning Commission didn't review the 2011 because they just came in and asked for some minor design modifications. We sent it to Urban Design Review Board, however. And because there was no increase in the count or in the--you know, they were, they were taking square footage from here to make up for the other square footage, we were able to approve it administratively for the reasons I read into the record.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: If there were an objection to not tearing down the building but leaving it up shouldn't that have been made back in 2009 when we agreed to that?

Ms. Cua: I guess.

Chair Hiranaga: Basically this is the second review by this Commission over--or third review, I guess.

Ms. Cua: It's the third review.

Chair Hiranaga: The proposed, proposed development as it stands.

Ms. Cua: Right.

Chair Hiranaga: Commissioner Shibuya?

Mr. Shibuya: This is more of a clarification. So they're not gonna destroy or demolish the main structure, but are they planning to do some reconfiguration of the rooms because when we reviewed it, I believe the rooms were--one of the reasons for demolishing it was because it was old and it was small.

Ms. Cua: I remember. I was on the site visit with you and you said you could barely fit in there with your wife, I remember that. That is correct.

Mr. Shibuya: That's right. And so --

Chair Hiranaga: Okay, too much information.

Ms. Cua: They are gonna--maybe the applicant could talk a little bit more about how they're gonna be reconfiguring the rooms. They are using the existing hotel. I believe they are making some of the rooms larger, but I think they are using some of the existing.

Mr. Alton Wong: My name is Alton Wong, I'm with the Kobayashi Group. I represent the developer. Yes, we are gonna reconfigure all the rooms. So the whole--we're gonna reuse the bay and the whole rooms are gonna be reconfigured, the lanais are gonna be pushed out a little bit more. But the structure itself is concrete and rebar so we have to live with that.

Mr. Shibuya: Okay, so you're, you're gutting the inside and upgrading it?

Mr. Wong: Yes sir.

Mr. Shibuya: Including the elevator?

Mr. Wong: The elevators all are shot, we can't--we have to--brand-new elevator.

Mr. Shibuya: That's correct.

Mr. Wong: Correct.

Mr. Shibuya: Okay.

Chair Hiranaga: Ceiling heights remain the same?

Mr. Wong: Yeah, we can't touch the ceiling heights. It's about 7, 8 or something. It's not as high as we would want it to be.

Chair Hiranaga: Any other questions for the Department or the applicant? Commissioner Wakida?

Ms. Wakida: This question's for Ann. I just wanna clarify because I wasn't around back in the day. According to Mr. Sadoski's letter and you can verify some of this. The original building is gonna be torn down and replaced with lower units because one of the issues he said was bringing it into compliance with Kihei-Makena Community Plan is that correct. Is what he's stating in here, correct?

Ms. Cua: Okay, what I can tell you is that the Kihei Community Plan does have a policy that talks about hotel related developments being 35 feet at the shoreline and working its way up to 75 feet that's a policy in the community plan. And the initial project when it came in, you know, a new project obviously is gonna have to comply with that.

Ms. Wakida: But I'm--what I meant to, to point out was this letter talks about height. It says it's conforming to the, to the compliance with Maui's Kihei-Makena Community Plan height limitations. Is that, is that part of this project originally?

Ms. Cua: Yeah, that's--well, it's always, again, it's always been a--that policy in the community plan, it's not a zoning requirement, it's a policy in the community plan so when they demolished that Mokapu wing, the project has to start at 35 feet and work its way up to 75 feet.

Ms. Wakida: Oh, I see what you're saying. Thank you. And if may I continue? And also in this letter it says the number of units has increased by a third? This is in the next to the last paragraph of Mr. Sadoski's letter. Is that correct?

Ms. Cua: I don't--I'm not sure. I don't believe so.

Chair Hiranaga: Okay, I think we're kind of--we're wandering here. They're looking for a Step 3 Planned Development Approval. They have an approved SMA Permit. So we're not gonna be revoking or talking about revoking a permit. We looking at step development plan--Step 3 Planned Development Approval.

Ms. Cua: And if I could go over just a little bit again. What you're supposed to do, what we're supposed to do in the Phase 3 step of this process is to assure that the construction drawings are in accordance with the Step 2 plan that was approved, and the Planning Department is here to tell you that it is.

Chair Hiranaga: Just a question on this comment on our agenda, it says, "Commission may take action to waive its review or review the proposed nonsubstantive amendment at a subsequent

meeting.” Is there a nonsubstantive amendment or is that just...

Ms. Cua: Right, so--

Chair Hiranaga: That's standard language or is there--what's the nonsubstantive?

Ms. Cua: So I guess if you determine--well, I'm not sure how the agenda reads, but according to the rules, I mean according to what was adopted, if you don't waive, then you have the opportunity to review the project just like how you do with SMA Permits. You would review it at a separate meeting.

Chair Hiranaga: Yeah, well we would be confirming that balconies are built--proposed as represented or hallway carpeting.

Ms. Cua: I mean, basically if we were coming back at a separate meeting, I would be telling you what I'm telling you now, but I would just, I would be doing a report and showing you that, you know, this is what was approved and this is what they wanna do now and the units--the unit count hasn't changed. You know, they've opened up the pool area, however, they're not using any more water for the pool in order to do that even though it looks like they are but they're not.

Chair Hiranaga: Parking stall count, drainage issues that were agreed to.

Ms. Cua: Yeah.

Chair Hiranaga: Commissioner Sablas?

Ms. Sablas: Just a comment, a question for Ann. Because this project has stalled for so many years and it has evolved, if we do require that it comes back it's gonna give an opportunity for the public to, to make comment on the project or yes or no?

Ms. Cua: Well, any item on the agenda like today, the public can comment. And so if it comes back on another agenda in whatever way, shape or form, the public would be able to comment again. But if it comes back on your agenda for you to review it would be as a communication item. It's not a public hearing. They got a waiver. They got a waiver from the intervenors for a public hearing. So there's no public hearing requirement for this, for the SMA.

Chair Hiranaga: Was there a intervention on this application?

Ms. Cua: On the SMA. On the SMA, yes, there was--oh, wait, wait, no, I'm sorry. I'm sorry, wrong one. I'm sorry, sorry, sorry, wrong project. Too long day. No, no, no, there wasn't on this one. I'm sorry. So if you don't waive today, we're just gonna have to come back at another meeting and it's gonna be a Communication item on the agenda.

Ms. Sablas: But no opportunity for public to --

Ms. Cua: There is just like how there is today.

Ms. Sablas: Yeah, yeah.

Ms. Cua: So same thing except this is under Director's Report. If it comes back it would be under Communication.

Chair Hiranaga: Either Ann or the Deputy could just clarify that they have an approved SMA Permit and they are in the process of complying with the specific conditions and one of which is to obtain Step 3 Development Approval.

Ms. Cua: Right.

Chair Hiranaga: So the SMA Permit is not up for discussion. They have an approved permit.

Ms. Cua: Right. And they also have a Step 1 and 2 Planned Development Approval, but to complete the Planned Development process they need a Step 3 which is approval of the construction drawings.

Ms. Wakida: I'm sorry, Ann--

Chair Hiranaga: Commissioner Wakida?

Ms. Wakida: I didn't hear what you said. Step 3 is approval of?

Ms. Cua: Construction --

Ms. Wakida: Construction is that what you said?

Ms. Cua: Construction drawings.

Ms. Wakida: Drawings. Thank you.

Ms. Cua: Whereas Step 2 Approval was just for the uniform site plan.

Chair Hiranaga: Commissioner Shibuya?

Mr. Shibuya: Just help me recall where the drainage system is? There is a drainage outlet and they were gonna have some kinda dry well constructed. It's close to the existing parking, emergency vehicle access, public beach access. Can you help me remember that?

Ms. Cua: Can I call the applicant up? Is that okay? Thanks.

Mr. Shibuya: Sure, please.

Mr. Wong: I'm using the proposed plans. So there's a drainage facility that picks up drainage off site that's come through the property and will come here and this is where it's currently being discharged right now. We have detention basins under the pool area in which we were capturing

the runoff from the property and retaining in there. So yes.

Mr. Shibuya: Now it's coming back. Thank you. It's coming back.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: Ann, on this letter from Unite Here on the first page at the bottom, it says, "since the FEA, Final Environmental Assessment was accepted in the initial SMA Use Permit, Shoreline Setback Variance, Planned Development Steps 1 and 2 Approvals were granted in 2006." Is Planned Development, Step 2 granted in 2006 or in 2009?

Ms. Cua: One was granted--remember, so there was a SMA and Step 1 and 2 Planned Development granted in 2006.

Mr. Mardfin: Okay.

Ms. Cua: And then there was an amendment to that.

Mr. Mardfin: So in 2009, they came back and asked for an amendment?

Ms. Cua: Yes, for an amendment which came to this Commission which is the proposed plan.

Mr. Mardfin: But there was no need for a revised EA at that time?

Ms. Cua: No, because at that time there was no trigger anymore for you know --

Mr. Mardfin: Got it. Thank you.

Ms. Cua: Yeah. And if I could just, one more quick comment? What's never changed is that that Mokapu wing is gonna be demolished. That has been consistent from the day they came through the door till now. So there has been no change to what originally triggered the Chapter 343 requirement for an EA. That has never changed.

Chair Hiranaga: So they're planning to demolish, the Mokapu building?

Ms. Cua: Yes, yes.

Unidentified Speaker: They will not.

Chair Hiranaga: They are. You are still planning to do that?

Ms. Cua: Yes.

Chair Hiranaga: Yeah.

Ms. Cua: And they're also--as the Commission requested, gonna be taking a sewer line--can't



remember if I'm even in the right project or not, but taking a sewer line out of the shoreline setback area that they had --

Chair Hiranaga: Yeah.

Ms. Cua: --they hadn't initially hadn't planned on doing that because they weren't going to change it and they were just gonna kinda leave it there, but the Commission at the time felt very strongly that in addition to that building coming out of the setback, they asked them to please move that sewer line out of the setback and so they're doing that as well.

Mr. Mardfin: I'm sorry which, which is the Mokapu building that's going to be demolished?

Ms. Cua: It's not there 'cause it's demolished. I mean, it's demolished when you look at the rendering, because this is what was --

Mr. Mardfin: Can you point out where it would have been?

Ms. Cua: In front of --

Chair Hiranaga: Yeah, if you remember we had a site visit --

Ms. Cua: In this area here.

Chair Hiranaga: --and it was very, very close to the sandy beach.

Ms. Cua: Oh, here it is.

Mr. Mardfin: This short building in here?

Ms. Cua: This is it. So this is, this is the existing. So it's right here.

Mr. Mardfin: Okay.

Ms. Cua: And you don't see it here because it's demolished on the, on the new plan.

Mr. Mardfin: Is it physically demolished already? So they will be demolishing and then rebuilding or building this new structure. Thank you.

Chair Hiranaga: Any other questions for the applicant or the Department? Seeing none, open the floor to a motion.

Mr. Lay: A motion to waive.

Mr. Freitas: Second.

Chair Hiranaga: A motion by Commissioner Lay to waive its review, the Commission--seconded

by Commissioner Freitas. Any discussion? Commissioner Mardfin?

Mr. Mardfin: I'm gonna vote in favor of this. I think if there was a reason to possibly require a new EA, it should have been done in 2009 not now. And as Ann points out even if they had objected in 2009, it still wouldn't have been required. So I'm perfectly happy to waive review.

Chair Hiranaga: Any other discussion? Seeing none I'll--Deputy Director--oh, Commissioner Lay?

Mr. Lay: I'm in favor of this waiver. I mean we got a lot of jobs coming up for a lot of people out there, major hotel industry, major construction, this place has been in a stale, stagnant time, time frame, I guess it's been time stand still where we gotta get this going forward, get people out there working that were promised jobs before, they can go back to work at that facility.

Chair Hiranaga: Yeah, comment from the Chairman, this facility I think has been standing idle for almost five years now and it's good to see that the owners aggressively pursuing a redevelopment project and instead of having applicants coming to us for extensions, we actually have someone that wants to build something. So I think we need to allow them to move forward. So if there's no discussion I will allow the Deputy Director to repeat the motion.

Ms. McLean: Thank you, Chair. The motion is for the Commission to waive its review and allow the approval to be granted administratively.

Chair Hiranaga: All in favor, so indicate by raising your hand.

Ms. McLean: Seven ayes.

Chair Hiranaga: Motion carries.

**It was moved by Mr. Lay, seconded by Mr. Freitas, then**

**VOTED: To Waive Its Review and Allow Approval to be Granted Administratively.  
(Assenting - J. Freitas, D. Domingo, I. Lay, L. Sablas, P. Wakida,  
W. Shibuya, W. Mardfin)  
(Excused - K. Ball)**

Ms. Cua: Thank you very much.

Chair Hiranaga: Agenda Item F-3. Deputy Director?

**3. Planning Commission Projects/Issues**

**a. Revising the SMA Boundaries**

Ms. McLean: The Department doesn't have any update on revising SMA boundaries.

Chair Hiranaga: Do we have a long-term estimate when the Department may have something?

Ms. McLean: I think we'll be able to come back to the Commission in the first half of next year in another round of GIS presentations.

Chair Hiranaga: Thank you. Agenda Item 4, F-4, -5, and -6.

- 4. EA/EIS Report**
- 5. SMA Minor Permit Report**
- 6. SMA Exemptions Report**

Chair Hiranaga: No discussion. Moving onto Agenda Item F-7. Deputy Director?

Ms. McLean: Actually if I could just make one comment on the previous items? Wanted to make the Commission aware that under your SMA Rules when the Planning Department does an initial assessment of an SMA application there are five different options in the rules that the Department has. That it's exempt that it can give a SMA Minor, it can give an SMA Major, it can give an SMA Emergency Permit or this fifth option says, cannot be processed because the action is not consistent with the General Plan, community plan, zoning. The Department feels like it would be more appropriate even though the rules allow for that, for the Department to just inform an applicant that it--that an SMA permit can be granted, either a Minor, Major, Emergency or Exemption, but that it cannot be issued until a Community Plan Amendment is obtained. The idea of sending an application back to an applicant and saying we can't process this doesn't really seem appropriate even though it is an option under the rules. So in terms of what comes to the Commission, it's not gonna change that. In terms to what's in this report, it's not going to change that, we just wanted you to be aware that we won't be sending applications back to applicants saying we cannot process this. We would say, in order for us to process it, we need a Community Plan Amendment for example.

Similarly in the rare case that there is an SMA application where you have a mismatch of land use designations, in the past it's been most routine for the Department to say we can't process this. Instead, the Department is going to go through all of the evaluation criteria first and then reach one of these decisions. So if a situation arises where it will be processed differently now than it had in the past, we will be certain to bring it to your attention under this report of something like that gets processed in a different way than it has been in the past, we will bring it to your attention.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: Does that mean we're potentially gonna face, be presented with applications for which the Department recommends no as opposed to, you know, 95 percent of them we get Department of approval, recommends approval.

Ms. McLean: If the Department, the Department recommends no...

Mr. Mardfin: Recommends denial.

Ms. McLean: For an SMA Major. I don't think that we would bring the application to the Commission unless the appropriate designations were in place. If an application required a Community Plan Amendment that would need to be processed at the same time. We wouldn't be bringing an SMA to you saying approve this even though the community plan designation doesn't allow it for example. We wouldn't be doing that. We would tell the applicant, you need to also submit a Community Plan Amendment application.

Mr. Mardfin: Okay, thank you.

Chair Hiranaga: Okay, Item F-7. Deputy Director?

## **7. Discussion of Future Maui Planning Commission Agendas**

### **a. November 22, 2011 meeting agenda items**

Ms. McLean: Thank you, Chair. There's a memo dated November 7<sup>th</sup> from Clayton Yoshida listing three public hearing items that might be taken up at the next meeting. I do wanna make a note that that first public hearing item, the Iglesia Ni Christo Church, I believe that there has been a notification problem with that. So I believe the item will remain on the agenda because there may be members in the public who got the notice wishing to testify, but I don't believe it will be posted for action. It needs to be renoticed and will be posted for action at a future meeting, but I believe it will remain on the agenda and I believe a petition to intervene has also been filed on that application and a decision on the intervention would also be held up until--for decision making at a later date.

Chair Hiranaga: Thank you. Item F, F-8. Deputy Director?

Mr. Shibuya: Mr. Chairman I was just gonna make a comment about agendas. And I think really it's a wrong time to make a comment because I should have woken up and spoken on Item No. 3, Planning Commission Projects, Issues. I was interested in renewable energy projects. I think we were gonna try and explain it to the Commissioners a long time ago. Are we still on that? No? We forgotten about it? Okay, well, whatever.

Ms. McLean: No, right here on my list of to dos it says, Maui Planning Commission energy workshop.

Mr. Shibuya: Okay, good. Thank you.

Ms. McLean: It's on there. We haven't moved on it, but it is still on there.

Mr. Shibuya: Okay, good. Thank you.

Chair Hiranaga: Deputy Director, F-8?

**8. Special Maui Planning Commission meeting, December 7, 2011 at 6:00 p.m., Hannibal Tavares Center, Pukalani, Island of Maui on the following:**

**MR. FRED ROMANCHAK of the KULA LODGE requesting a Phase II Project District amendment to delete Condition No. 26 prohibiting kitchens inside the hotel rooms for the Kula Lodge at 15200 Haleakala Highway, TMK: 2-3-022: 087, Kula, Island of Maui. (PH2 2008/0002) (P. Fasi)**

Ms. McLean: Yes, you have a special meeting scheduled December 7<sup>th</sup> at 6:00 p.m. at the Hannibal Tavares Center in Pukalani for the Kula Lodge.

Chair Hiranaga: Just for the benefit of the Department, all the Commissioners present plan to be there? Question is, does anyone plan not to be there? Commissioner Sablas?

Ms. Sablas: There's one meeting in December and this is the meeting?

Chair Hiranaga: No, this is a special meeting. Primarily a public hearing to take testimony regarding the requested change for the Kula Lodge. They want to include kitchens now instead of --project condition excluding kitchens. So I don't really--we may not take action that night, but we will take public testimony depending on how many people sign up to testify.

Ms. McLean: December 7<sup>th</sup> is a Wednesday, and then the following Tuesday, the 13<sup>th</sup> is your regular meeting and that is the only December regular meeting.

Ms. Domingo: So Kent, we're gonna need a quorum then in this meeting? Can I get back to you then end of the week?

Chair Hiranaga: And just for clarity, since we will be discussing kitchens. Is dinner being served by the County or do we have to eat before? I remember we had lots of food at the Kula Lodge public hearing. Yeah, you brought a lot of food, but you're not gonna be there this time.

Ms. Sablas: Off island.

Chair Hiranaga: So County's not providing dinner? A non response that's a no. Just for clarity. Okay, so right now we have one definite no, one maybe. Commissioner Wakida?

Ms. Wakida: As long as everybody knows the island, where is the Hannibal Tavares Center? Is that by the shopping center? Across the shopping --

Chair Hiranaga: Across the street from the Pukalani Terrace. All right, next regular --if you are unable to attend please notify the Department as soon as possible. And next regular meeting is November 22, 2011. If there's no objection, this meeting is adjourned.

**G. NEXT REGULAR MEETING DATE: NOVEMBER 22, 2011**

**H. ADJOURNMENT**

The meeting was adjourned at 4:19 p.m.

Submitted by,

CAROLYN J. TAKAYAMA-CORDEN  
Secretary to Boards and Commissions II

**RECORD OF ATTENDANCE**

**Present**

Donna Domingo  
Jack Freitas  
Kent Hiranaga, Chairperson  
Ivan Lay  
Ward Mardfin  
Lori Sablas  
Warren Shibuya, Vice Chairperson  
Penny Wakida

**Excused**

Keone Ball

**Others**

Michele McLean, Planning Department  
RichelleThomson, Department of the Corporation Counsel  
Lance Nakamura, Department of Public Works