

**INFRASTRUCTURE AND ENVIRONMENTAL
MANAGEMENT COMMITTEE**
Council of the County of Maui

CANCELED AT MEETING DUE TO LACK OF QUORUM
FORMAL RECEIPT OF TESTIMONY AND PRESENTATION

M I N U T E S

Council Chamber

August 20, 2018

CONVENE: 1:45 p.m.

PRESENT: VOTING MEMBERS:

Councilmember Elle Cochran, Chair
Councilmember Alikea Atay
Councilmember Riki Hokama
Councilmember Yuki Lei K. Sugimura (arrived at 2:00 p.m.)

NON-VOTING MEMBERS

Councilmember Kelly King

EXCUSED: Councilmember Don S. Guzman, Vice-Chair
Councilmember Robert Carroll
Councilmember Mike White

STAFF: Maggie Clark, Legislative Analyst
Stacey Vinoray, Committee Secretary

Ella Alcon, Council Aide, Molokai Council Office (via telephone
conference bridge)

Denise Fernandez, Council Aide, Lanai Council Office (via
telephone conference bridge)

Sarah Pajimola, Executive Assistant to Councilmember Cochran
Morris Haole, Executive Assistant to Councilmember Carroll

ADMIN.: Richelle Thomson, Deputy Corporation Counsel, Department of the
Corporation Counsel
David Goode, Director, Department of Public Works
Joseph Alueta, Deputy Director, Department of Planning
Keith Scott, Planner V, Department of Planning

OTHERS: Lauren Morawski, Compliance Archaeologist, Office of Hawaiian
Affairs

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Justin Kekoa Kekiwi, Chair, Iwi Committee, Aha Moku o Maui,
Honua`ula Moku
Tina Rothman, Professional GIS Analyst
Robin Knox
Uilani Kapu
Ke`eaumoku Kapu, Chief Executive Officer, Aha Moku o Maui
Lucienne de Naie, Board Member, Sierra Club
Tyson Kwon-San Kanemainalani Au
Dana Reed
Daniel Kanahele
Linda Stiles
Hattie King
Jacob Adolpho
Autumn Ness
Tina Wildberger
Hannibal Starbuck
Mary Ann Kamalani Pahukoa
Cody Tuivaiti
Skye (last name not given)
Albert Perez, Executive Director, Maui Tomorrow
Kaimaile Makekau
Plus (18) other people

PRESS: *Akaku Maui Community Television, Inc.*
Colleen Uechi, The Maui News

**IEM-80 TRAFFIC SAFETY AND ENVIRONMENTAL CONCERNS RESULTING FROM
DEVELOPMENT IN MAKENA (CC 18-225)**

CHAIR COCHRAN: . . . (*gavel*) . . . Aloha, will the Infrastructure and Environmental Management [*sic*] come to order? Today is August 20, 2018. It's about 1:45 in the afternoon. And, Members and also the audience, we do not have quorum. Present with me is Alika Atay.

COUNCILMEMBER ATAY: Good afternoon, Chair.

CHAIR COCHRAN: Aloha. And Councilmember Hokama. Aloha, thank you. And Non-Voting Member Kelly King.

COUNCILMEMBER KING: Aloha.

CHAIR COCHRAN: So, we actually need four of us to make a quorum. But we can continue with the meeting which I'll do since I have a room full of testifiers and also some wonderful people who put together a great presentation. And OHA here and

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Department, so I want to make sure that our day is not wasted and your time and efforts is not either. So, I'm Councilmember Elle Cochran. At this time, please silence cell phones, any noisemaking devices. And, we have...oh, yes, we have Director Goode of Public Works in the audience. And from Department of Planning looks like Deputy Director Joe Alueta, also Keith Scott, a Planner. Aloha, gentlemen. Corporation Counsel Richelle Thomson, and Committee Staff we have Legislative Analyst Maggie Clark and Committee Secretary Stacey Vinoray. Our presenters, we have Justin Kekoa Kekiwi, Chair of Iwi Committee, Aha Moku o Maui. Aloha. And Lauren Morawski, is it?

MS. MORAWSKI: Yes.

CHAIR COCHRAN: Okay, thank you. Compliance Archaeologist of Office of Hawaiian Affairs. And, looks like in the audience Lucienne de Naie, also Member, Land Use for Aha Moku o Maui. Tina Rothman to my far right, Professional GIS Analyst. So, we have one item, IEM-80, and this is Traffic Safety and Environmental Concerns Resulting from Development in Makena. And at this time I am going to open the floor up for public testimony. So with that, Ms. Clark, can you call our first testifier?

MS. CLARK: Madam Chair, the first person signed up to testify is Robin Knox testifying on IEM-80.

CHAIR COCHRAN: And, Ms. Clark, you can call the...so then they can follow up and get ready and appear.

MS. CLARK: Robin Knox will be followed by Uilani Kapu.

CHAIR COCHRAN: Thank you.

. . . BEGIN PUBLIC TESTIMONY . . .

MS. KNOX: Aloha, Chair. Aloha, Councilmembers. Thank you for hearing this matter today. I have to say that I, after looking into it just a little bit it seems like one of those cases where our system is just not working and a lot of dots are not getting connected. And it's really hard to tell if this project is properly permitted or not without doing a lot of research. And I hope that you can do that research. This is an area...first of all by way of background my name is Robin Knox, I'm an environmental scientist specializing in water quality and I am familiar with this area having done studies here over the last decade or so. It's the area of our cleanest water. I've tested water from Honolulu Bay all the way to La Perouse and this is one of the areas of our cleanest water. DOH also recognizes it as one of our areas of most valuable resources, Class AA waters of the highest protection for clean water and the aquatic life. Having observed it as a watershed coordinator during different size storm events, I've noticed that this area tends...the water tends to infiltrate more than run off. I had a hard time

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actually capturing runoff samples out there except where there was development and impervious surfaces like roads and rooftops had been installed. Just the natural system, the water tends to...the runoff tends to be mitigated except the really big intense storms. And even in those storms when the water does make it all the way to the ocean, the water is still the cleanest off of that shoreline of anywhere that I've seen. There's a lack of actual water quality data that's published. The UH data, the project I worked on there didn't publish the water quality data, and the Department of Health has not assessed this area to see if it's in compliance with water quality standards. They say that there's a lack of data. Nearby at Big Beach they have done assessments and found that turbidity and Chlorophyll A which are signs of sediment and nutrients are causing impairments of water quality. So, even in some of our clearest waters and cleanest waters in our least developed areas we can see impairments. It's not clear if this project has an NPDES permit, a Clean Water Act permit for stormwater runoff. The only permit I see in the area is for the _____ family residence and that's kind of odd 'cause that means a construction site of more than one acre to even require that permit. The Kihei Community Association did ask for a public hearing and apparently one was not granted because I don't see any records of that on the DOH site. The permit application for that family residence says that they're going to have more than two acres of impervious surface, and my main concern is that road, it's going to be like a sediment superhighway. In addition, injection wells and wherever their sewage is going, whether it's injection or septage [sic] is going to all get to the ocean in that area. So, I request that we get some baseline data and also that we try to connect the dots and make sure that all the permits for all parts of this project are in hand.

CHAIR COCHRAN: Thank you, Ms. Knox. If you have more you can submit in written. Thank you.

MS. KNOX: Thank you.

MS. CLARK: The next person signed up to testify is Uilani Kapu to be followed by Ke'eaumoku Kapu.

MS. KAPU: Aloha mai kakou. Uilani Kapu, Aha Moku o Lahaina. Supporting our Aha Moku on Maui. After reviewing all of this area and this sites I had a problem with segmentation. The consultants...and I know it doesn't belong in this Committee but I just want you folks to be aware of it. Through the environmental process and the grading and grubbing that's been permitted...

(Note: Ms. Kapu's baby grabs the microphone)

MS. KAPU: Alright, you can have your chance when you get bigger. Thank you. Through that grading and grubbing it's going to...well it is affecting our reefs right now. Alright, you go to papa.

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(Note: Ms. Kapu hand her baby to someone from gallery)

MS. KAPU: With the runoff and everything and all the water that, the rains that we're expecting and everything is going to go and...so environmental case. But again, segmentation, this consultant has a history of segmenting the properties. We have one in Haiku that we're dealing with in our Aha Moku system. We have a Lahaina one, our Olowalu, we're dealing with that one, and now we're having it in Honua`ula. We really have to look at all the permitting to make sure the permitting is in place before everything or anything is allowed. The grading and grubbing is not...is being done in places that are not even in this property. You folks was...review that in his PowerPoint but just to let you folks know that Planning Department has a way of getting things around. We've had that cases in...for years we've had that problem. We've sued the County in many occasions because of that process and because of that...the permitting not being done right. They have to go step-by-step and make sure that every single department is heard from before allowing anything to happen. We have sites out there that will be damaged if not taken care of and not done properly. Look at Wailea 670, you know, it's right down the road from it. So, again, through the grubbing and grading that's going on now and with the effects of all of the rains and everything that are coming, our ocean is going to be totally brown, our reefs are going to be covered with the sediments and it's not good for environment. But also I am against injection wells. That is a problem, a big, huge problem for West Maui and I'd hate to see it happen there. Mahalo.

CHAIR COCHRAN: Thank you, Ms. Kapu.

MS. CLARK: The next person signed up to testify is Ke`eaumoku Kapu to be followed by Lucienne de Naie.

MR. KAPU: Aloha, Councilmembers. Ke`eaumoku Kapu from Lahaina. I'm also the CEO for Aha Moku o Maui, Inc. In full support of the Moku Island Councils of Honua`ula as well as Kula, in fact the whole 12 mokus. And the reason why we were set in place as a functional organization known as Aha Moku under the aha moku system which was...which passed in legislation in 2006, in 2007, then again in 2012 signed by Governor Neil Abercrombie. So, we can provide oversight when it comes to historical properties, burials, you know, all those kinds of things, and most definitely we also have the backing of the Office of Hawaiian Affairs when we go in front to explain issues. And this has been an issue that we've been dealing with and that's the whole reason why we put together the process of trying to get a Legislative law put together to address the Native Hawaiian component which is really important. And for years now, I would say within the past 10 to 15 years this County has been failing their fiduciary duties to address the issues that the Native Hawaiians have on exactly projects such as this. There's not many oversight when it comes to the County's Public Works Department. It seems like everything is just overlaid and rubberstamped. I mean I look at the organizations or I mean the company that's been involved and I've dealt with these same companies before in the past, and it doesn't

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surprise me that all of a sudden when the permits go, basically go through the Planning as well as the Public Works Department they get one rubberstamp on this. So, my issue is to bring this in front of the County that we get one lawsuit pending and it's going to come soon if you guys don't figure out what you guys need to do to protect the interest. Me as one kanaka, I have rights that is protected by Constitutional law, Article 12, Section 7 of the Hawaii State Constitution. I have rights to allow me within these areas to also give and provide recommendations through consultation on the Hawaii Revised Statute 7-1. I also have rights that's supposed to be protected by your government on the Hawaii Revised Statute Section 1-1. You guys supposed to protect our interests when it comes to these kinds of things and what I see, the common practice is a site is a site, it doesn't matter because nobody really cares about it. Well, this one kanaka going tell you right now I care about it and I'm pushing this to make sure that this body does the right thing or else you guys going see me in court again. Thank you.

CHAIR COCHRAN: Mahalo, Mr. Kapu.

MS. CLARK: The next person signed up to testify is Lucienne de Naie, to be followed by Tyson Au.

MS. de NAIE: Aloha. I am Lucienne de Naie and I'm honored to be part of the Land Committee of the Aha Moku Council and was called in to consult on some of the land use matters on this project. I'm testifying today on behalf of the Sierra Club Maui Group as its Conservation Chair. Sierra Club has tracked development in this particular area for many years. The area is not Makena itself, it's further south right on the edge of where the Ahihi-Kinau Natural Area Reserve is. It's an area that as has been explained has very high-quality waters. There's a beautiful fishing heiau right on the coast just where this road in question that's being...has been built over the last year and a half. This road ends and there's a fishing heiau, _____ Heiau right on the coast on State land. Sierra Club has done service outings there to care for the area around the heiau before. So, this is not just somebody building a house and wow, you know, it could have been done better. This is an area that it has many ceremonial sites. There's another small heiau just a little bit further along the road, the old _____ property. And when you take this road that has been under construction you find out that the road itself got a permit and had archeological review, but all the areas to the side of the road never had archeological review in our modern time. They did have archeological review, kind of like a real quick sort of thing back in the 1990s when the area was first proposed for several hundred...it's 150-acre parcel that originally was in this area and it was surrounded by State land and it was proposed to be a golf course and luxury homes if they could lease some of the State land. This is what the Sierra Club got involved along with many others. Fortunately this poor idea was turned down, it was very bad planning in the middle of nowhere and you're going to have hundreds of residences. Well, fast forward, all these lots that comprised the 150 acres are now under separate but joined ownership. And work was done on supposedly two TMKS but...or one TMK and the road but basically things were disrupted on other

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parcels and those parcels were hastily added to the permit, the grading permit but they were never added to any archeological review. Now, this is a broken process and we need some solutions. So, our suggestion is that you watch this excellent presentation. There's some suggestions made through the presentation and see what this Council can do to improve this process. Mahalo nui loa.

CHAIR COCHRAN: Thank you, Ms. de Naie.

MS. CLARK: The next person signed up to testify is Tyson Au testifying on IEM-80, to be followed by Dana Reed.

MR. AU: Aloha. Aloha mai kakou.

CHAIR COCHRAN: Aloha.

MR. AU: My name is Tyson Kwon-San Kanemainalani Au. I am a Native Hawaiian, kanaka maoli, cultural practitioner, also a recognized lineal descendent of Honua`ula District, Papa`anui Ahupua`a, the island of Maui. I'm seventh generation to John . . .*(inaudible)*. . . subject as a Native Hawaiian tenant to the land. As well as that I'm here because I'm against the development or any other development project proposed in the Honua`ula District. This historic Native Hawaiian kanaka maoli resources properties belong to the Hawaiians and kanakas. Our resources shall be saved from destruction of construction for the educational purposes for the future generations and to be held in perpetuity forever. This historical property's resources tell the stories of our ancestry which consist of many adverse effects upon the variety of cultural practices in this moku, island of Maui, Hawaii which creates negative impacts upon the foresaid. For example, the Reservation, Ahihi-Kinau, a natural area reservation perfectly...obvious example of an adverse effect, has a negative impact culturally, physically, and environmentally that shall be respected due to location as well as its being there. Five-minute walking distance, direct flow to its natural area reservation which will create its negative impact. It's an impact on the marine life, its resources, habitats, animals, the youngest lava flow on Maui, et cetera. That's the definition of an impact statement and also common sense. As well as that, mahalo for hearing me out.

CHAIR COCHRAN: Mahalo. Thank you for your testimony.

MS. CLARK: The next person signed up to testify is Dana Reed, to be followed by Daniel Kanahele.

MS. REED: Aloha kakou. My name is Dana Reed and I'm here to testify on behalf of this project. I've only recently become aware of this project so I don't have a lot of knowledge about it. I have looked at some of the briefings that I've found online about the project and I too echo Lucienne and Robin Knox's concerns. Lucienne's concerns in terms of I think that permits may have been issued without

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substantive...substantial looks at what the environmental impacts are going to be to this. I run a water quality monitoring program called Hui O Ka Wai Ola which has begun monitoring data or monitoring sites in South Maui last November. And we do now have water quality data for regions of South Maui. Not as much as we would like to have but we do have a handle on what the water quality looks like down in the Ahihi-Kinau area up through Makena. And I can tell you now that I am concerned about any sort of injection wells going into a project like this, because those injection wells are contributing pollutants to the groundwater which ends up coming out into these areas. And it looks like there's a substantial amount of groundwater that comes out in the Ahihi-Kinau area which we have found from the water quality data that we have collected thus far. And in fact the nutrient levels coming out at Ahihi-Kinau in the area that we've been monitoring have been elevated above the State standard which is a concern because this is an area that should have virtually no pollutants. There's not that many people around so my concern is that there may be areas north of that area or, you know, more towards the Kihei area that are actually entering the groundwater and discharging into the Ahihi-Kinau area. And so I definitely think that there are things that should be monitored, you know, and that those impacts should be taken into account. I have ten months' worth of data. That data is quality assured and is accepted by the Department of Health for use in their integrated reports. This only began so this won't come out via the Department of Health until 2020, but I can tell you that we do have that data on our website now if anybody is interested in looking at that. So, thank you very much.

(Note: Councilmember Sugimura enters the Chambers at approximately 2:00 p.m.)

CHAIR COCHRAN: Thank you, Ms. Reed, for your testimony. And I'd like to recognize the presence of Ms. Yuki Lei Sugimura. Thank you for being here. And the next testifier?

MS. CLARK: Madam Chair, the next person signed up to testify is Daniel Kanahele testifying on IEM-80, to be followed by Linda Stiles.

MR. KANAHELE: Chair, before I begin my testimony is there a quorum present? Do we have a quorum?

CHAIR COCHRAN: Currently. We will lose in...less than an hour.

MR. KANAHELE: There were...the last testifier didn't have any opportunity to have anyone ask a question of them if there was a quorum present at the time the testifier was testifying. So, they weren't given an opportunity of the Committee to ask them a question. I don't know if you're aware of that.

CHAIR COCHRAN: Yes, they're...and our Members are aware that should they have clarification needs they have that opportunity.

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MR. KANAHELE: Okay. So, I just want to make sure the person before me didn't have the opportunity for questions asked. Okay, thank you. Thank you for being here, Committee Members, for having a quorum because this is an important issue before you. My name is Daniel Kanahele. I live in the moku of Honua`ula and I'm a cultural practitioner. One of my practices is to malama my moku, to take care of the kai, the wai, the aina. And I've been practicing that for some years now and I've done that by participating or sitting on many organizations over the years. So, there's very few things that happen in Honua`ula that I don't get adrift of, but I missed this one for some reason, this project, and it's called Mo`omoku Development, I believe that's the name, I could be wrong. In any case, there's three things that I...standards to me that make up any good development. One, it has to be transparent. There has to be transparency. Two, it has to follow the rule of law. And three, there has to be adequate community input. Those are three important standards for any development. Having just heard about this latter part of last year, I'm a little bit surprised because it sounds to me that there may be a rogue development occurring out there in Makena in a very sensitive area. That's why you have all these people here. It's probably because there was a lack of community input and transparency and maybe not following the rule of law. I don't know if there was adequate historic review for this development in its grading permits, but I can tell you it's very, very serious if you do not have adequate 6E review. That's what stopped the rail, that's what slowed down Wailea 670 and that's what could slow down this development, because that means there's going to be a big, bright light shined on this project because it seems like it went under the radar. And that doesn't make me very happy. I'm concerned that some of our historic sites have been destroyed, and I hope that's not the case 'cause I've worked very hard and many people here have worked hard over the year protecting our history. Our historic sites are a part of our history, part of our culture. So, there's a lot of questions that need to be answered. I know a lot of the players, you know, I know the County Planning Department, I know Will Spence. I know David Goode, Public Works. I know SCS, Scientific Consulting Services, the archeologists. I know Frampton and Ward. I know all of these guys, you know, personally and if there is anything going on, I would hope that they would reach out to me personally or to the Aha Moku of Honua`ula 'cause we're right there, we're out there. And a lot of them are here today so they're just wondering what the heck is going on. So, please, we need some answers. And maybe after this presentation you'll have some questions and concerns of your own 'cause we certainly do. Thank you for your attention.

CHAIR COCHRAN: Thank you, Mr. Kanahele.

MS. CLARK: The next person signed up to testify is Linda Stiles, testifying on IEM-80, to be followed by Hattie King.

MS. STILES: Aloha. I'm Linda Stiles. And I live in Makena, have been there 45 years and after hearing the trucks, the semi-trucks barreling by for over a month, they'd start first thing in the morning and right around sunset they'd stop. And these were

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semi-trucks, dump trucks with trailers, sometimes five, sometimes seven, five-six times a day. I decided to go see what they were doing. When I saw what they were doing I wrote this to the County of Maui, was a request for service that they go up and check out what's going on. This is what I wrote: It looks like a new subdivision, huge. My problem is that I watch them digging trenches for waterlines and digging deep. There was no archeological monitor. I watched them for over an hour. They are tearing down rock walls, and what appears to be a heiau is being heavily damaged. This is of great concern. Was this property studied at all? I had to have a monitor at great expense or would be fined \$10,000. Please watch the situation. I watched till I was caught and chased out. There was no monitor. Damage extensive to what looks to me as what I have on my property, a heiau. When it's gone it's gone. Mahalo for looking into this matter. And then I get on, property is going towards La Perouse after Big Beach but before conservation area sign on fence post that says 7299. This is actually the address of the house immediately up the road. The only spot the locals can pull off the road and camp on the ocean. If you go up and veer to the right, keep going up, you'll most likely start hearing the bulldozers about two miles up. So, now I had my grandson fly over it and take pictures and now that dirt road is now asphalt and it's done all the way up about two miles up all the way down to the ocean. And I don't know if I told you, I can't remember but I wrote this to the building department, the 22nd of June, 2017. And when I didn't get a reply I called them and they said everything was checked out and it's all good. There's no need for concern, that's what I was told. And we also have a video before I was caught of them tearing down the rock walls. Thank you.

CHAIR COCHRAN: Thank you, Ms. Stiles. One second.

COUNCILMEMBER ATAY: Chair?

CHAIR COCHRAN: Mr. Atay has a question for you. Thank you.

COUNCILMEMBER ATAY: Thank you, Ms. Stiles. So, I'm trying to get clarification, you wrote a request for service on June 22, 2017?

MS. STILES: Yes.

COUNCILMEMBER ATAY: Did you have an identification number of that RFS or a response date?

MS. STILES: I never got a response. I do have the request entry.

COUNCILMEMBER ATAY: Okay.

MS. STILES: And then Albert Perez got in touch with me 'cause I got in touch with Albert Perez and he said...I said they never responded and he said call 'em and they said they went up and everything looked good.

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COUNCILMEMBER ATAY: Okay, thank you.

CHAIR COCHRAN: Thank you.

MS. CLARK: The next person signed up to testify is Hattie King, to be followed by Jacob Adolpho.

MS. KING: I'm Hattie King. I guess I'm just...this makes me very sad. I live in Makena on a Hawaiian heiau or a fishing shrine. I see the souls come to me every time there's building. This project brought to me hundreds and hundreds of souls that made me go and find them to find out what this property stands for. Please keep your eye, the souls need your help. The kupunas are crying to me, please help them. Thank you. Aloha.

CHAIR COCHRAN: Thank you for being here.

MS. CLARK: Madam Chair, the next person signed up to testify is Jacob Adolpho, to be followed by Autumn Ness.

MR. ADOLPHO: Aloha, my name is Jacob Makana Adolpho. I'm here to talk to you folks today about a development that is going on in South Maui. I've been intimately involved in this development but not by my own choice. To begin with I worked for a local surveyor and they were assigned to this project. I was one of the first people on this project before the development started. I was the one pounding the pins, I know what they did up there, I know where they did it before they destroyed it. There is significant damage up there, significant damage. There are damages to existing heiau. There are damages to existing shrines. I can't give any testimony on how we got here, the fact is, is that we're here. The fact is that we're looking down the barrel of something that could be extremely dangerous to our community, our local community here. Those sites in those areas are important to be preserved for the lineal descendants of those areas to continue to perpetuate what they have been taught. They were taught how to do things in those areas because of the way that things are in those areas, because of the stones that the kupunas put down. They maa over there. Don't take that away from them. The water, big problems over there. I know where the wells are drilled up there and I know where they puka'ing down into. I know which tubes they sticking into, and those tubes you look on the aerial shots, where they drilled the wells you can see the tube continuing up the mountain all the way. This is mauka to makai. What you fut around with up there is going affect everything else down the line. Please ensure that the review is thorough. Moving forward, I can only give you my experience here. I do go in those mountains, I do access those areas, I know those areas. What has been done to date is illegal, straight up. It is going to damage those areas. The runoff, the things that nobody looked at, someone needs to look at. Mahalo for your time.

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CHAIR COCHRAN: Thank you for your time.

MS. CLARK: The next person signed up to testify is Autumn Ness, to be followed by Tina Wildberger.

MS. NESS: Aloha, Committee. My name is Autumn Ness testifying on IEM-80. I'm actually going to read into the record some comments from Dr. Mark Deakos who couldn't be here today because he's working on Oahu. He sent this testimony to you, it's on record but it's important enough that I think the entire gallery hear as well. He's saying that I'm asking you to require a Special Management Area review with respect to the impacts that the Mo'omoku Development will have on the Ahihi-Kinau Natural Area Reserve System. Ahihi-Kinau is Maui's only NARS with a marine component and it is often used by scientists as a "control" reference for water quality and coral reef health that is un-impacted from coastal development. The number one threat to our coral reefs is land-based sediment which suffocates and stresses our reefs and prevents next generation corals from developing. We've all seen the increasing brown water events flowing out onto our reefs. The coral reefs along the Makena shoreline where development has occurred has already been severely impacted. A 2005 to 2016 marine survey in front of three developed areas in Makena revealed decreases in coral cover of 44 to 30 percent, 87 to 29 percent, and 50 to 9 percent. The extensive grading at the project site without proper sediment controls in place is exposing large amounts of soil that will be transported to the ocean during the next major rain event--possibly even Wednesday--smothering the coral reefs or the preserve. In some areas the exposed soils are only 40 feet from the ocean. The number two threat to our coral reefs is excessive nutrients contributing to the overgrowth of invasive algae. The source of these nutrients are not only from stormwater runoff but from injection wells. Water quality data in front of developed areas of Makena have shown nitrogen levels at 142 times the legal limit set by the DOH. This suggests that the Mo'omoku Development will likely have a major impact to corals within the preserve and therefore should require a proper Environmental Impact Assessment to quantify these impacts. This project should have proper SMA review, permitting, and environmental monitoring to ensure the public's most valuable natural resources are properly protected. Those are Dr. Deakos' comments. My own comments to add here are what was just said before me, how we got here is a question, right? But how we fix it and now is the more timely question. Semantics about permitting and grey areas and jurisdiction and whose job is it and who messed up and how are we going to fix while all of this happens are unacceptable frankly. When the reef system collapses and when that stops being the only area in our State with pristine water and not degrading coral reefs, I'm sorry I didn't know is not acceptable, it's too late. We see these huge things happening, look at Florida and their red tide and people are like oh I didn't know that was going to happen. We knew that was going to happen. We all saw the writing on the wall, we all saw the factors that contribute to that and now look at what's happening to Florida. There's dead animals, collapsing ecosystems that no one knows how to fix. We all saw it coming. So, we have a chance now to fix it before we

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get there, to all put our collective thinking caps on and move forward with a solution. Thank you.

CHAIR COCHRAN: Thank you, Ms. Ness.

MS. CLARK: The next person signed up to testify is Tina Wildberger, to be followed by Hannibal Starbuck.

MS. WILDBERGER: Aloha, Chair. Thank you, Committee. My name is Tina Wildberger. I'm here as a volunteer for the Maui Nui Marine Resource Council. I do water testing down at that very site. I'm also a marine tourism professional. I run an ecotourism business and I'm very much concerned about the quality of this reef. I'd like to talk to you all about wastewater for a second. I'm not a wastewater expert but I know that there is a state-of-the-art marine...wastewater treatment facility very close to these parcels and the fact that it wouldn't be required by our permitting entities to demand municipal wastewater for any development in the area when there is a state-of-the-art facility that is underutilized at this moment is boggling, mind boggling to me. It's a AA rated clean water area by the Department of Health and the DLNR, the marine waters there off of that spot. We need to maintain that resource. We need to preserve that resource, and we need to reject injection wells and cesspools from now on. We need wastewater infrastructure to accompany every single development, and I'm here to ask that our departments revoke that injection well and demand wastewater infrastructure to go to the Makena plant that has plenty of capacity to accommodate whatever ends up being developed. No more cesspools, no more injection wells. We have to stop. Mahalo.

CHAIR COCHRAN: Thank you, Ms. Wildberger.

MS. CLARK: The next person signed up to testify is Hannibal Starbuck testifying on IEM-80, to be followed by Mary Ann Pahukoa.

MR. STARBUCK: Aloha, Chair, Members of the Committee. My name is Hannibal Starbuck, I'm testifying today as an individual. I am a science teacher at Baldwin High School and I took a personal leave today for other reasons but I'm happy to be here. And I had the privilege of reviewing the report that was prepared for this Mo`omoku area in the Moku o Honua`ula which also includes the island of Kahoolawe, it's in the same moku. So, I'll first speak to the environmental concerns and of the necessity of the two wells, and to me it seems that this is questionable because it was...they listed a farm plan that listed wiliwili trees and deer as part of their farm. So, my question is when you're farming deer do you build your fence low so they can jump over or build it high so they can't jump out? 'Cause they can jump, right? And wiliwili grows out there without the help of irrigation water. So, if you look at the segmentation, it's obvious it's going to be developed piecemeal, that's what I see when I see that. So, they have this injection well that from what I understand and I'd like to hear more about this, they're going to run the brackish water from the wells through reverse

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osmosis and the brine that is leftover is what they're allowed to inject. I'm, I do not know if they're injecting any other wastewater, but if it was from...if they were I'm sure we'd all want to know about it, if these however many lots there are, seven-plus lots are going to be able in the future to combine. Again, I may have the numbers wrong there. But that would be terrible because Ahihi-Kinaiu is a reserve and that is part of the quality of life of all the community and the tourists as well, because the reefs...the coral out there is healthy and the fish...I just went out there with my eight-year-old daughter not a month ago or two months ago and it was beautiful. So, any risk to that is detrimental to our quality of life. And I'll wrap it up here with the archeological sites, if there are 50-plus sites identified and only three are listed as going to be preserved intact, majority can be destroyed out of 50 and several can be taken to the company building on Oahu and who knows what happens there. That...I want to...is that status quo? Because if it is, that too is unacceptable and I'd like to hear more about that from our archeological expert. So, thank you for letting me testify today.

CHAIR COCHRAN: Thank you, Mr. Starbuck.

MS. CLARK: The next person signed up to testify is Mary Ann Pahukoa, to be followed by Cody Tuivaiti.

MS. PAHUKOA: Aloha. My name is Kamalani, I'm a lineal descendent of Maui nui. This proposed development is borderline as you heard to some of Hawaii's most fragile ecosystems. There is a heiau, a fishing heiau below as stated by one of our kupuna. The anchialine ponds, _____ further down are home to the native red opae. The aina hema to this was used as navigational points for our voyagers. The bays of these grounds are significant in mano or shark presence. These grounds hold immense purpose and the kauna or hidden meaning behind this place serves as a, what I'd like to say is a blueprint for our children's future. The fact that the surrounding community had no idea that this proposed development was going on until heavy machinery was seen in these sacred sites is a huge red flag. It's our kuleana to listen to our kupuna moololo, to practice our native rights, to protect all cultural grounds for the preservation of our identity. Our moololo is the history, legends, traditions, and survival of Hawaiian culture. We cannot ignore our moololo. You'll hear words like this in many testimonies because it has to be shared again and again to maintain that connection with our people, with our leaders, to be reminded of our historical sites of Maui nui basically. Mahalo to all our leaders who continue to serve and protect like many mention the quality of life for the people of Maui. I'd like to ask that you today once again honor our sacred places by preserving our island and preserving Mo'omoku in Honua'ula. The surrounding perspective of this place is Kahoolawe, the piko of our islands. We must keep our views of this island unobstructed by foreigner estates out of respect for the island of Kahoolawe, to honor the significance of Kahoolawe, and to give recognition for those who have lost their lives for Kahoolawe. I echo what many of my community members said today in regards to archeological sites and the preservation of our heiau. And I really hope that these guys get held accountable for their actions and destruction that's already gone on. Mahalo.

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CHAIR COCHRAN: Thank you for your testimony.

MS. CLARK: The next person signed up to testify is Cody Tuivaiti testifying on IEM-80, to be followed by Skye. No last name was provided for the testifier.

MR. TUIVAITI: Can I pass these out? Aloha mai kakou. I'm here in testimony for the development issues affecting Mo`omoku. It was first brought to my attention when I seen a video of historic walls being destroyed. It's brought a lot of pain as it did to many of those who commented and shared this video. It was also brought to my attention that three pohaku crushers made its way to this delicate district. After hearing this I decided to look into the issues further. To think that these sacred pohaku were excavated and put through a grinder with no monitor present makes me sad and angry. As a cultural advocate I'm appalled on how easily it is for developers to destroy, abuse, disregard our sacred sites and resources. Too much has already been taken and with what is left there needs to be a sufficient and thorough process for determination. That has not been done here in Mo`omoku. The laws set up to protect our history and resources have been completely bypassed. No lineal descendents, community members, or cultural practitioners were contacted during this process. With less than 50 sites discovered, only a handful were determined to be significant. With no lineal or generational input this process is incomplete. I also learned for three to four months SHPD was trying to set up a site visit and never got a chance. It wasn't until the day after the road was excavated and completed did they finally meet and issue the stop work order. For me, the significance for every site is determined by those who are connected culturally and genealogically. These areas are the last living testaments to the history of the kanaka and they should be given the right to have their voices heard. Their children deserve the right to learn their identity and connect with their kupuna. The culture and moolelo is so in depth that unless you have been taught these customs and way of life through generational knowledge, you're basically just guessing. Every site is represented as a seed and as long as those seeds exist there will always been an opportunity for growth. But once those seeds are taken so is the connection to its past. Every day we are learning as new generations about our resources, our wahi pana and our wahi kapu, and we'll continue to fight for what is sacred. The people deserve better and more so, so does the aina. Mahalo.

CHAIR COCHRAN: Mahalo for your testimony.

MS. CLARK: The next person signed up to testify is Skye, to be followed by Albert Perez.

MR. SKYE: Aloha, my name is Skye. And I want to start off with talking about accountability. You know most criminals they're held accountable, they go to court and they get processed and they either gotta pay one fine or they go to jail. Goodfellows has continually done things like this for years, not just Goodfellows, other companies, and they get a slap on the wrist so they can come back and do it again and again and again. So, there's no accountability here because it stems all the way

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down into the Planning Department. The permits that are issued, when it takes me months to get a permit for a building, a small little shack to use on a farm, these guys get 'em in four days, sometimes the next day. Or they can go in and do their job and then get the permits issued after and get a slap on the wrist. So, there's no accountability here, and if that's the case then we're coming to a head, because we're getting tired of coming here talking to you people and them just stepping on us. Continually stepping on us, and you guys allow them to do that because you guys don't punish them. This should be the last time this happens, but we know it's not because they going get one 'nother permit, they going get one 'nother job, and they going do the same thing. Secondly, these archeologists that come in here know jack about our culture. They don't know what happened on that side. They don't know how much people were slaughtered just by Kalaniopuu showing up. They don't know how many exodus happened in that place, how many...how respondent the people were to that area knowing the resources in that area were very delicate. They were so delicate that they left that area vacant for years so it can come back, and when they come home they do it all over again. But these things they don't go...they don't look at these things as important. They don't look at it as somebody coming back after one lava flow with their o'o made of wood busting up the lava rock, building one hole big enough to bring dirt from the mauka, fill it up and plant. That's the type of work these people did in that area. They caught water from the air. These people managed their water, their resources, and they didn't have scientists like these people, everybody was one scientist because they learned from each other. Today, we're left with people that come from the mainland with a degree that believe a rock pile is a rock pile, that the iwi beneath that rock pile is longer existing, and if they bulldoze over it quick enough and close their eyes long enough they'll all disappear. But like I said we're coming to a head, things gotta change. The new _____ that's coming up today is not going to take any more of this crap. We looking to you guys to do the change. If you guys not going to do we're going to change it ourselves. Mahalo.

CHAIR COCHRAN: Skye, did you have a last name we can put on record or...

MR. SKYE: Yeah, you can put Kamaunu, that's fine.

CHAIR COCHRAN: Kamaunu?

MR. SKYE: Yeah.

CHAIR COCHRAN: Okay. Kamaunu. Thank you.

MS. CLARK: The next person signed up to testify is Albert Perez, to be followed by Kaimaile Makekau.

MR. PEREZ: Aloha, Councilmembers, good afternoon. I'm Albert Perez with the Maui Tomorrow Foundation testifying on the IEM-80 I believe, that's the number. You know the Kihei-Makena Community Plan has four pages that are devoted to cultural

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resources and their protection and how it's important to prevent things like this from occurring. The citizen's advisory committee that put their time into this, they were expecting that this plan would be enforced. If we're going to ask people to serve on future community plan advisory committees, people need to know that they're not going to be wasting their time. The goal under cultural resources is to identify, preserve, enhance, and...I guess I copied it wrong, something about...the wording...anyway, it's about appropriate use of cultural resources, cultural practice, and historic sites that preserves and protects Native Hawaiian rights. That is very unambiguous. Unfortunately, you're likely to hear from our Departments that grading permits don't have to comply with the General Plan of which the community plans are a part. The Maui County Code Section 2.80B.030 says that all agencies shall comply with the General Plan, and administrative actions by agencies shall also conform to the General Plan except for ministerial permits or approvals, including grading permits. So, what that means is that you can just grade anything you want and not have to worry about the community plan. This exception was passed by the County Council in 2013, and this Mo`omuku is an example of why this section of the Code should be repealed. Also, the Special Management Area review for this project apparently triggered only one exemption and two minor permits. The exemption list is a list of things that are exempt from SMA review, but none of these exemptions are applicable when the impact or the cumulative impact is significant. So, it shouldn't just be a checklist, it should be a checklist if it's not significant. And if it is, require a permit. Also, subdivisions are being put in all over Maui without public notice. We only find out when the bulldozers and trucks start rolling. We need to change the law to provide for public notice and a posted sign for all subdivisions, and the bottom line is that we need to care. Our government needs to care. We often hear that we must honor our host culture. With this current broken process it's clear that we are not doing that. Thank you.

CHAIR COCHRAN: Thank you, Mr. Perez, for your testimony.

MS. CLARK: The last person signed up to testify is Kaimaile Makekau testifying on IEM-80.

MS. MAKEKAU: Aloha. My name is Kaimaile Makekau and I am testifying for the marine life at Ahihi-Kinau, I, and the landowners and for this ahupuaa. I know that for a fact that I don't know if any of you guys have ever dived at Ahihi-Kinau, but I dive all over this island and there is no better diving and no more...I mean even the fish they know where to go. This place is so beautiful and it's so sacred and the land, there's a reason why our kupuna had put all of these heiaus and fishing shrines in this area, it was not only electric magnetic connection but even the fish know where to go. I mean it's covered, one foot in and you've got billions of fish all over the place. And to have all of this development that will be happening up there, it will not only suffocate our reefs but our fish. We will never have another place to dive like this, another sanctuary like this, it'll be gone, and this is the last place. We have Honolua but of course when they built that subdivision and that development up there, they blocked all of the kahawais and the river where the water runs and so all of the dirt water went inside, it killed a

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lot of the ocean reefs there. The development, it'll kill the marine life. And for all of the rock structures and the amount of time that our kupuna had put in one by one to make all of those walls, and our heiaus, they're so sacred and it's such a shame. And I know you guys hear this over and over but it's breaking my heart. And now for this spot, there's a lot of places that breaks my heart all over, but this place is so connected to the marine life and it's something that all of us need. It's where all of the small papios grow. They come here to grow and they need a spot to feel comfortable, if not our marine life is going to die. We need to protect this place with all that we've got. If no other beach...I mean all the beaches on that spot are being taken. Protect this spot because this is the last spot that our fish have to go for our keiki and for our kupuna, for the reason of our heiaus, for our culture, just please respect us and protect this place. Mahalo.

CHAIR COCHRAN: Thank you. Anyone else willing to testify? Please sign up at the desk out front. Otherwise, let me turn...I know Hana we don't have anyone in the office in Hana and Lanai has no testifiers. I'll check in with Molokai. Ms. Alcon, are you there on Molokai? Do you have testifiers?

MS. ALCON: Good afternoon, Chair. This is Ella Alcon on Molokai and there's no one here waiting to testify.

CHAIR COCHRAN: Thank you, Ms. Alcon. Okay, anyone else? Seeing no one else approaching, I shall now close public testimony without objections.

COUNCILMEMBERS VOICED NO OBJECTIONS.

. . . END OF PUBLIC TESTIMONY . . .

CHAIR COCHRAN: Thank you. And I want to state for the record that for...with compliance for, with Sunshine Law that this meeting actually has...is cancelled under HRS 92-2.5 but we are as we did take testimony. We are receiving a presentation under this provision and we all are able to ask questions. There will be minutes taken also so it's not like this never existed or happened in anyone's eyes or on record, it is occurring and it will be documented. So, but we as Members cannot deliberate or take any Legislative action today because of the situation we have. So, at this time if everyone's ready to jump in with the presentation, we're ready. Okay. Mr. Kekiwi, you're going to start with that? And...yes? Okay.

MR. KEKIWI: Yes.

CHAIR COCHRAN: Okay.

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. . . **BEGIN PRESENTATION** . . .

MR. KEKIWI: All right, I'm going to go over here so I can see. Aloha...

CHAIR COCHRAN: Is it on?

MR. KEKIWI: Check, check. All right. Aloha kakou. My name is Justin...

CHAIR COCHRAN: Is it going?

MR. KEKIWI: You like me talk...

CHAIR COCHRAN: No, we need it for...we need it mic'd.

MR. KEKIWI: Check, check. All right. Aloha kakou. My name is Justin Kekoa Kekiwi, born on Maui, raised all throughout the island of Maui and Molokai. I currently live in Honua`ula Mo`oloa. I'm a lineal descendent recognized by SHPD and the Burial Council to Honua`ula, Papa`anui. My family is scattered all throughout these islands but we are pili koko to Kaupo, Kahikinui and Honua`ula. I currently work for DLNR for State parks but when I first started about 12 years ago I worked for Division of Forestry and Wildlife for nine years. I very fortunate to work with all the different watersheds and conservation agencies that protect our natural resources and preserve them. Right now, three years ago I transferred down to Makena State Parks. I'm the Chair for the Aha Moku Iwi Committee for Honua`ula Moku. But today I'm here and I speak on behalf of myself as a lineal descendent and as a _____ to my ohana, to the aina, and to my culture. So, this presentation, many people...was brought by many people's energy and efforts including kupuna, community members, and members of the County and State. Through this positive collaboration we have been able to shine a light on a situation that deserves closer attention. We thank you for your support and mahalo everybody for coming. Okay. So, the Mo`omoku Development, community concerns regarding County permitting, environmental impacts and archeological sites. Our main questions are was all the work that was done in Mo`omoku properly permitted and is this project being segmented to avoid proper review processes? Mo`omoku is located in Honua`ula Moku. That's the yellow. Mo`omoku is traditional ahupua`a place name of the project area. It has hundreds of cultural sites from pre-contact to ranching eras. It also contains one of the last wiliwili dry land forests on Maui. So, this is kind of, I'm standing on one vantage point, one very sacred spot and this is pretty much your whole project area looking towards south. Can see the wiliwili entwined in there with the kiawe. So, the development occurs between Makena State Park and Ahihi-Kinau Natural Area Reserve System in the State and County Ag Districts. The majority of the development is in the Special Management Area and that's all in the yellow is your SMA. So, the area of concern was a 150-acre parcel known as Japan Grand Prix in the 1980s. It was subsequently divided into current ownership below under different names with the same contact address. So, all of these parcels all have that same contact address.

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The parties involved in the development, Evans Holding and Mo`oloa Ranch are the landowners. Frampton and Ward are the consultants. Scientific Consulting Services is the archeology firm. Goodfellow Brothers, the primary contractor for construction. County of Maui, Department of Planning and Public Works, and State Historic Preservation Division provides recommendations and conditions. So, the timeline of the community action, in August of 2017, community members noticed increased construction traffic on Makena Road and take footage of historic walls being destroyed. Concerns arise regarding project proximity to Ahihi-Kinau NAR. Lineal descendents of Honua`ula meet with Goodfellow and SCS to discuss project impacts to culturally sensitive area with hundreds of archeological sites. A site visit was conducted. In December of 2017, Goodfellow reopens a road on State land without permits to bring in three rock crushers on site to process excavated material. No archeological monitoring during crushing. In January, we communicate with zoning inspector from Planning and find out six of the seven parcels where work occurred did not have SMA permits. We also find that historic review was not completed and there was no community consultation. In February, community submits multiple requests for services. The County response is there are no permit violations. The community reaches out to OHA for support. OHA sends requests to the County and SHPD for project information. On May 9th, based on OHA, SHPD, and community actions, Public Works issues a work stop order for the Evans Holding project based on outstanding archeological reports. Work scheduled to continue when SHPD approves these reports. So, concern number one is the permitting process. A grading permit was issued by Public Works prior to completion of SHPD review. This permit allowed excavation to occur in an area containing 50-plus archeological sites without a plan to mitigate these impacts to these sites. And this was the basis for the stop work order. So, that's...I standing like right next to Makena Road looking mauka. This is the entry easement to the project, and this is it halfway through on their excavation. And this is your completed road easement. And by...just for reference, this one, they was doing this at 12, 1 o'clock in the morning and they was jamming this project like all day, all night. So, Public Works issued a grading permit for parcels that did not get archeological review. Grading occurred on total of seven parcels. Only one of the seven parcels had an Archeological Inventory Survey conducted on it. So, the one in the red is their main project area. That's the only one that had an AIS done. All the other ones in the white had work done on it but no AIS. The blue line is your driveway that they refer to and total distance is about three-quarter mile. And just a reference, that's about 13 football fields long, so that's a long driveway. And that's what it looks like right now. So, Frampton and Ward applied for major increases in project scope from the original application. You can see in 2014, this was their initial permit numbers. Excavation only about 900 cubic-yards, it went to 6,500. The grading area was about half an acre, went to six-and-three-quarter acre. So, a huge increase. So, Goodfellow conducted additional grading on neighboring parcels. Parcel 024, State of Hawaii, they accessed and graded State land without permits to transport rock crushers to the site. Right there where...on the left picture I'm standing on the State road and it goes way up behind me into Ulupalakua Ranch land. The middle one is Mo`oloa Ranch, Parcel 137. They graded the parcel for rock crushing and stockpiling

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and no permits for that area. And then Parcel 108 is ATC Makena and they have...that's their easement to access this but there was no SMA permit. You can see how close it is to the ocean, and the reserve is right there. This is Parcel 137, this is when they were doing the rock crushing. I went up that day, there was no archeological monitors in sight. And that's what they were turning in...all that rock into. And this is all our pohaku from long time. State land and adjoining parcel were graded without permit. So, this is the top parcel in blue is your State parcel that they accessed, and the one right here is 137, this is the one without permits. So, summary of concern regarding grading permits is the Department of Public Works approved grading permits without SHPD review. The grading permit included four parcels that did not have an Archeological Inventory Survey, and Goodfellow graded parcels without permits, Parcel 137 and 024. So, concern number two is the environmental impacts. The community is concerned that Mo'omoku Development is being piecemealed to avoid environmental review. Because of the interlocking ownership of the parcels and the infrastructure being put into place, community members are not...or community members are concerned that this a large-scale project in the SMA that is not receiving proper environmental review due to parcel-by-parcel permitting. So, again, this whole project area is in the SMA. That's your yellow line right there. The purpose of the SMA was it was established in 1976 with enactment of Act 176, known as the Shoreline Protection Act. It extends inland from and along the shoreline area. It's basically a safeguard to protect the most sensitive area of our coastal zones. So, the SMA permit violations exist for six of the seven parcels where grading occurred. So, the only one that has an SMA is the one in red. All the other parcels where work occurred there are no SMA permits. So, the SMA permits issued to Evans Holding include a \$1.8 million farm dwelling and injection well and a gate, and that's what they have their SMAs for. But also in the project are two municipal wells, a water treatment facility, and a 100,000-gallon water tank was also approved. So, one question that we have is with SMA permits being reviewed on a parcel-by-parcel basis, how can the County examine the cumulative impacts of this project as a whole? If you add the value of the total project improvements, shouldn't it trigger an SMA major? So, the approved infrastructure does not match Evans Holding farm plan. In their farm plan it states that 51 percent of Parcel 135 will be kept as agricultural land conservation. Located on this parcel are wiliwili trees, buffelgrass, and buffelgrass which serve as a habitat for the deer population. So, basically what they're saying is they're going to leave the area alone and they're going to let...they're going to raise deer and wiliwili. And just so you know, the deer eat the wiliwili, yeah, and that's not going to work, so. Why is there...another question for the County is why is there a need for a 100,000-gallon water tank and 2 municipal wells for a single farm dwelling with a farm plan that requires little to no water? The habitat described in this plan occurs naturally and there is...in this area and does not require irrigation. Municipal defined by the Water Commission staff is irrigation for a number of people for a privately-owned system. Is this water to support a large development in the future? That's your water tank and your treatment facility. Those are your municipal wells and they...the capacity of these wells, they can pump a lot of water and a lot more than they need. And a little thing about that I wanted to talk about, so they're...when

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they hit...when they drilled these wells, the water was not clean enough to spec so they had to put in this reverse osmosis system to clean the water. And what that does is they take the water out, they put it...they mix their chemicals, they clean out the brine, and then that brine is...they're taking that and they're putting that into the injection well. And that's major for the reefs and all the environmental impacts for that, so. The Natural Area Reserve System or NARS is approximately a quarter mile from the Mo'omoku Development. Ahihi-Kinau is the only NAR on Maui with a marine component. It was the first designated NAR in 1973. In 2007, DLNR, Division of Aquatic Resources conducted a coral reef survey within the NAR boundary waters and it was the only reef from their test sites that was not declining overall. So, that's major, yeah, that tells you right there that we're the only place in Maui specifically that does not have a declining reef in this area and there's reasons for that. The community submitted an RFS requesting Environmental Impact Statement to assess project impacts. Planning Department responds there are no EIS triggers. So, how does a highly protected State reserve that is in close proximity to a large project in the SMA with an injection well have absolutely no review for environmental impacts? As managers of the reserve, why was DLNR, specifically Aquatic Resources and Forestry and Wildlife not consulted? So, the water quality classifications, this area falls under Class AA. From HAR 11, 54, it is the objective of Class AA waters that these waters remain in their natural pristine state as nearly as possible with an absolutely minimum of pollution, alteration, or water quality from any human cause, source, or actions. To the extent practicable, the wilderness character of these areas shall be protected. So, you can see this is just a zoomed-in that we do lie in that, we fall in that zone. Potential impacts are silt runoff, injection wells, and groundwater extraction, all of these negatively impact our coral reefs and marine resources. This is just when, while construction was happening after a rain. They was watering 'em down but you can see the mud was coming across the street and then this little thing was funneling it into the ocean. That's your road. That going be one highway for silt runoff. So, these are potential impacts that are not being reviewed by the County due to piecemealing of the permitting process. The impacts of new wells pumping groundwater have unknown short and long-term negative impacts on ecosystem and shoreline cultural practices for fishing and gathering. Effects from disposal well of the reverse osmosis brine has negative impacts to our water quality, negative impacts on the NAR marine resources. The NARS are the most highly protected State lands. Long-term impact of silt and dirt runoff carried by new paved driveway to the ocean, and impacts on important cultural sites such as the aupuni wall and pre-contact sites. So the aupuni wall crosses through this area. It was built in the 1800s by Kamehameha III to protect the farmers' crops from free-ranging cattle. Besides fishponds, this is one of the few large-scale public works projects remaining from this era. And right there that's the aupuni wall. This is what started the whole thing, yeah, was we found out they was knocking down cultural sites and we went up there, they was knocking down cultural sites. And for us that's...that no can. So, that's what it looks like now. So, our concern number three is historic preservation, site desecrations. So, this is just me and my uncle went up and we was just checking out the area of what damage they did and just documenting what is there before they

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damage more. All public agencies in the State of Hawaii including the County of Maui are obligated to comply with HRS Chapter 6E, Historic Preservation Laws. According to HAR 13-284-5, for historic preservation regarding private projects, the agency [in this case Maui County] shall ensure whether historic properties are present in the project area and, if so, Maui County shall ensure that these properties are properly identified and inventoried. So, you can see another wall coming up, you just push all the material on top. So, the County is obligated to uphold the Kihei-Makena Community Plan. Under implementing actions, require development projects to identify all cultural resources located within or adjacent to the project area, prior to application, as part of the County development review process. Further require that all proposed activity include recommendations to mitigate potential adverse impacts on cultural resources, including site avoidance, adequate buffer areas and interpretation. Particular attention should be directed toward the southern areas of the planning region. So, Evans Holding hired SCS or Scientific Consulting Services to do an AIS which is an Archeological Inventory Survey and they completed in 2015. So, the community has concerns about the quality of SCS' work. They did not identify known archeological sites within their project area. And a previous AIS was done in '91 and for the 150-acre Japan Grand Prix parcel resulted in identification of numerous sites. SCS claimed none of these sites were in the AIS project area. So, in this one it shows you, yeah, like in the red where the arrow is pointing is where SCS claimed their project area is. In the green is where the actual project area is and that's, that information was provided by OHA from their GIS guys, and there's actually nine sites recorded in there. So, the result of SCS' work was there's 50 new sites consisting of 82 features were identified, and 43 of these sites have no further work which basically means it's okay to go over there and remove these pohaku and do whatever you like with 'em. And four of the sites have data recovery and what that means is they're going to go over there, do their tests and if they find anything cool, they can take it back to their lab and keep it or whatever they do with it. And then three of the sites are recommended for preservation so they just leave it alone, they put one fence around it, one five-meter buffer zone. Some more sites. This place has a lot of sites. So, SCS did not seek community consultation when deciding on site recommendations. Community consultation is the cornerstone of understanding the true significance of Hawaiian archeological sites. SCS has knowledge of Honua'ula Moku cultural consultants but did not attempt to reach out to them during significance assessments or recommendations for these cultural sites. Regarding criteria [sic] "E" sites, basically what this long paragraph says is that they're required by law to do consultation and they didn't and that's one other issue that we have. So, in this area there's a lot of lava tubes like was in testimony, yeah, there's a lot of lava tubes. There's iwi in some of these lava tubes and that's something that's not brought up. And what happens when they puka these lava tubes in their construction? What happens when they destroy that waterline going down to the ocean? Those things need to be thought about. All identified sites in SCS project area by State inventory, historic places by site number. So, basically all the black dots...and this is just this one parcel now, yeah, so all the black dots are what SCS found. All the yellow dots is what _____ found. As you can see, this area is loaded with cultural history, loaded.

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It's one village. This whole...and all these parcels next to it have the same thing in them. And what they going do is preserve three sites, two that I know of is on the top corner. And pretty much everything else in there can just destroy and get rid of. That's not okay, that's not acceptable. Some more cultural history. So, the community recommendations to the County for improving current processes is one, to support the Kihei-Makena Community Plan. Two, the Cultural Resource Commission and all County departments involved in permitting processes should have a consultation list provided by Aha Moku. The SMA permit should be the first permit required when multiple permits are required for a development. Introduce legislation to close the loopholes in the County Code that are being taken advantage of. The Code should ensure accountability and protection to our resources. And the County and the State needs to figure out a better communication process to avoid misinterpretation of comment letters. And what that number five is, is just like the whole time what we learned going back and forth was like the blame game, yeah. So, we gotta make that clear like stopping pointing finger, accept the accountability, and just communicate. So, requested actions. Look at Mo`omoku Development as a whole to examine the cumulative long-term impacts. Conduct an Environmental Assessment or an Environmental Impact Statement. Regulate historic properties through ordinance; according to HRS 6E, if County wanted to they have the ability to and they could enact their own laws to protect cultural resources. What happens is they're always saying oh, that's not us, that's the State, the State is responsible for that. But you guys actually have the power to jump in and help us protect our cultural resources. Reopen the Archeological Inventory Survey to include all the parcels that had grading. Consultation with community and Aha Moku to develop conservation for the wiliwili forest and preservation of cultural resources. This is the heiau that sits by the ocean. Like guy said in testimony, yeah, this is not just one site that you're looking at here, one site here, this is one whole village complex that needs to be acknowledged. Conclusion, Mo`omoku has a very cultural and natural history. The dry land wiliwili forest, the countless historical sites, pristine marine ecosystem, cultural practices, and the sacredness of these lands deserves to be protected. The current construction avoided environmental review processes that protect these resources. In the past 200 years, development has erased so much culture history and depleted our resources. We need to start saving what history still lives and give life back to our aina. If we don't make drastic changes now we will fail our kuleana as makua to our keiki. Yeah, thank you to all who have contributed their energy into this presentation, including everyone here in this room today. It represents the efforts of many and was only possible through collaboration. We hope the County continues to collaborate with the community because in the end what we want is the same, to protect the place, the people, and the values that we love. And this picture is one wiliwili flowering, I just went up there the other day. And I take my keiki up to this place, yeah, we show them...we do cultural practices. And this is one promise of new life, yeah. After the flower comes the seed and that's what we gotta continue to pass on for our keiki, for the future. So, please honor that. Mahalo hui.

. . . END PRESENTATION . . .

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CHAIR COCHRAN: Mahalo. Good job. Thank you. Thank you so much. So, Members, the...my intention is to hear what we did, hear out the presentation and to explore the...the item is Traffic Safety and Environmental Concerns Resulting from Development in Makena. So, that is development in Mo`omuku Ahupua`a of Makena and the lands identified with RPT is TMK (2) 2-1-005:026 and (2) 2-1-005:129 through (2) 2-1-005:139. And as we can see through the presentation, a lot of the issues do relate to Public Works and, you know, by way, the process of which the subdivision had occurred and the issuance of grading and grubbing permits had occurred and how these relate to the environmental concerns of the area overall. We do have Director Goode here with us and we can have discussion, Members, of course no Legislative action. But I would like to invite Director Goode down here. Should you have any further discussion, comments to add to what you saw here or know of to give additional background on the matter if you have, Director Goode, at this time. Thank you. I know my office has asked or OCS has asked your Department to provide more documents relating to permits that were referenced here with the parcels, and we've been trying to gather more information but I don't believe we received...oh we have it? Okay. Oh, wait no, sorry, I'll take that back. We did receive it...

UNIDENTIFIED SPEAKER: Not enough copies...

CHAIR COCHRAN: Oh look, we...here it is. We got it all, it's like two inches thick of stuff. So, thank you very much, Director. But obviously just received it. Oh, here's Planning. This is Planning, Planning Department? Yeah, so I think...we received Planning. Thank you, Planning. We have Planning back here which I'll address in a minute. Oh, this is DSA, Director, we did receive about an inch-thick stack. So, anyhow, I'm going to turn the floor over to you, Director, at this time for some additional comments if you have or whatever you'd like to share with us.

MR. GOODE: Okay.

CHAIR COCHRAN: Thank you.

MR. GOODE: Thank you, Chair and Members. David Goode here, Director of Department of Public Works. Yeah, so the Chair had sent the Department questions on August 9th which we probably received a day or two after that, basically asking for all copies of all permits that we've issued for the subject properties. And she did identify the TMKs. And so we sent a letter on August 15th which looks like the Mayor's Office got on the 16th, and then it actually was signed today by the Mayor so that's just receiving it. So, you'll see in there copies of building permits, it looks like three building permits or more. Couple driveway permits, couple electrical permits, a few grading permits, along with the plans that were requested for that. And then there's at least seven or so TMKs of which we have no permits at all on record. And, Chair, I know very little about this project. I mean we issue a couple hundred grading permits a year and as

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you probably remember at least 1,800 building permits per year. So, unless it comes, some significant issue comes to our office, none that I'm aware of in the last year and a half came to us except one, and that was when we received a letter from SHPD requesting that we stop work on one of the grading permits, because there was concerns from SHPD that they were not either following their monitoring plan or their AIS or something. So, we immediately stopped work. And we asked that the applicant and SHPD work it out. And until we received a green light from SHPD, the stop work will remain in place. And so that's what happened. If I recall correctly we got a green light that SHPD had said it was okay to proceed and so we lifted the stop work. Other than that, Chair, I mean our office was unaware of it, but our staff was probably...certainly aware of the project because we've had inspectors go check up on the grading work that was done. And again, other than that, I don't know much. So, if the Council, your Members, yourself, Chair, have, you know, further questions we'd be happy to respond in writing once we've had an opportunity to look at the questions and draft appropriate answers. Thank you.

CHAIR COCHRAN: Thank you, Director Goode. Members, let's...oh, Planning, do you have follow-up comments at this time? We did receive your stack of correspondence here.

MR. ALUETA: Yes we responded back to you, yeah, and primarily all we can say is that they were granted for the one parcel that was in particular there was an exemption for a single-family dwelling. There was also an SMA assessment done for some well, injection wells and that again, that was...well was for brine, for after treatment. So, it was...I know there was a lot of...some confusion among some of the testifiers, it has nothing to do with a septic system at this time. But yeah, you have all of our information. We can address anything more specific if you have them, Madam Chair.

CHAIR COCHRAN: Okay. Members, the floor is open for questions if you have for department, anyone here, our presenter. Mr. Hokama, I know you're going to need to leave.

COUNCILMEMBER HOKAMA: Yeah, Chairman, if you would --

CHAIR COCHRAN: Yes, you can go ahead.

COUNCILMEMBER HOKAMA: --allow?

CHAIR COCHRAN: Yeah.

COUNCILMEMBER HOKAMA: Thank you very much. Mr. Kekiwi, thank you for your presentation this afternoon. The main one that kind of sticks out 'cause I heard comment from someone earlier was that whether this qualified as a major or minor application, Chair. And that if I heard correctly it was viewed as a minor application. Was that a correct understanding of the Committee, departments? Was the SMA viewed as a minor application, Planning?

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CHAIR COCHRAN: Planning?

MR. ALUETA: For the individual lot that came in, yes. It was...one was...there was a...back in 2015, I believe, April --

COUNCILMEMBER HOKAMA: Right.

MR. ALUETA: --there was an assessment.

COUNCILMEMBER HOKAMA: Right.

MR. ALUETA: So, that was determined to be an exempt action. There was also some installation. There was a minor permit issues with a long list of some conditions. And again, this is dealing with some fence line issues and then...

COUNCILMEMBER HOKAMA: Okay, but the basic decision whether the permit is a minor or a major is dollar value, right, of the project?

MR. ALUETA: Yeah, we don't...again, the lots that are here are existing. So, there wasn't a subdivision to assess. So, the one...we were only primarily dealing with a single lot.

COUNCILMEMBER HOKAMA: And the project, value of that project, right?

MR. ALUETA: There's a valuation but also the, whether or not it's single family. So, that's what was the first exemption, and the valuation, yes, for minor. But we also...valuation is not the only issue, it's also whether or not there's potential for a larger impact. At the time we did not view it as a...obviously at the time we did not view it as part of a larger development.

COUNCILMEMBER HOKAMA: Well, you know, we went through this with West Maui, we went through this with Montana Beach, we're going through this now again. Because from your own report we see that the estimated value of the project is \$1.8 million. I just taking it out from the Department's report, Chair. So, if we just looking at value of the project, obviously it's no minor permit application because it's at 1.8 million. And I think for us, Chair, like Montana Beach, like West Maui whether it was Olowalu or another project earlier, it always comes back to is someone trying to circumvent the process to escape required review work or required assessments? Okay. So, we've heard about that for about three-four different projects in West Maui already, breaking it up to get away from a major assessment by parceling. Okay. So, you know, we getting smarter, Chair, you know, we get the experience. So, if this us one, this was a Planning Commission decision, not a Council decision, okay, SMA. The rest was departmental. What would we be able to do today to try and ensure the community that they have a fair meeting on what is actually being proposed and developed? Because I can see this being a parceling and not a presentation of a full project, I can

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make that argument. So, I'm just trying to be real with those that have showed up this afternoon. What is the ability of Council to try and mediate or rectify certain issues with this proposal although I should say project 'cause this is already approved?

CHAIR COCHRAN: Yeah, and thank you, that's my take also.

COUNCILMEMBER HOKAMA: So, can we remand this back to Commission as a Council? Can we ask the Commission to re-review the SMA application? I don't know the answer, I'm just asking the question. Do we have the power to remand?

CHAIR COCHRAN: Well, I know a lot of these decisions were made on behalf of the Department, so does Planning have a take on that at this time? 'Cause I had that question too, 1.8 mil...1.18 million --

COUNCILMEMBER HOKAMA: I think that's a legal question, Chair --

CHAIR COCHRAN: --is the...

COUNCILMEMBER HOKAMA: --not one Planning question.

CHAIR COCHRAN: Okay.

COUNCILMEMBER HOKAMA: That's a legal Corporation Counsel question.

CHAIR COCHRAN: And the home is 7,500 square foot, it's like...or the farm dwelling it's like it's kind of large. Ms. Thomson?

MR. ALUETA: It's under...sorry, Madam Chair. It's under 7,500 'cause that's the threshold so whether or not it would be...

CHAIR COCHRAN: No, this application is at that number though. But we'll go over to Ms. Thomson at this time to refer to miss...Mr. Hokama's query please.

MS. THOMSON: Thank you, Chair, and thank you for the question. It's a good question. Normally you would look at whether they were not complying with an SMA permit or whether some of the information that they gave at the time that they were seeking the permit was not correct or wasn't complete. And that might offer a window into reopening that process. I don't have any knowledge of the specific project so I can't comment on it more than generally at this time.

COUNCILMEMBER HOKAMA: And thank you for that response, Deputy, I can appreciate being conservative. But, Chair, if...I mean even just a fraction, and again we saw photographs, okay, documentation. So, if the photograph documentation is accurate which I have no reason to doubt, that the actual what was proposed is a different site

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from what was worked on, I think we get one pretty good position, Chair. 'Cause obviously what was reviewed and approved is not where the work was done according to the photographs. Okay. So, what the County reviewed and approved is not the site I guess an attorney could argue. So, by that is that a default automatically by the applicant? Because it takes a conscious decision to change the site and change the work scope.

CHAIR COCHRAN: Yeah.

COUNCILMEMBER HOKAMA: So, I just pose the concern I have, Chair. Thank you.

CHAIR COCHRAN: Thank you very much, Mr. Hokama. I think that was a...worthy thoughts and I think further vetting to see if that's doable. But, Members, anyone else had any questions or comments for Department or our presenters? Mr. Atay?

COUNCILMEMBER ATAY: Thank you, Chair. I think if the Departments, both Departments asking, you know, for questions, I think the questions that Mr. Kekiwi posed in his presentation I would like those questions answered by either Department, because it brings...I mean as I watched that presentation there was a lot of questions. I am concerned about that roadway, should there be a storm, is there a storm drain and where is all that collected water going to runoff to? It's mauka to makai, it's going to go makai. And so, you know, where is that mitigation plan of any storm rain runoff into our ocean? On the other side in the injection well side, if it's brine where is the comment from State Natural Area Reserve, from NARS? You know is NARS aware of this exposure to their Ahihi-Kinau, you know, exposure to their reserve and the potential biological impact of brine being injected? And we know we have hindsight of what took place with injection wells on the west coast, it's not if it's going to come up or where it's going to come up, it's going to be when. And what's going to be its biological impact? So, knowing we have a preserve, how can even that be allowed to allow an injection well full of brine to enter our aina environment? So, yeah, these are questions that--thank you, Mr. Kekiwi, for that presentation--that definitely need to be answered by either Department or bodies. Chair, thank you.

CHAIR COCHRAN: Thank you. At this time let me go ahead and have Ms. Morawski since you're here with us from OHA. Do you want to share?

MS. MORAWSKI: . . .*(inaudible)*. . .

CHAIR COCHRAN: Yeah. And speak into your microphone, I think you have a microphone in front of you to give us some insight to what you know or participation with the project or...

MS. MORAWSKI: Aloha kakou.

CHAIR COCHRAN: Aloha.

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MS. MORAWSKI: Okay, I'll give you a little summary of how we came to be involved in this project. Justin guys brought this to our attention when I was here on a site visit for another project right down the street. And what I did was I went back and I looked into the correspondence relative to the grading permits as well as the 6E historic preservation review process at the SHPD. And upon looking at the correspondence between the County and SHPD, from what was available it appears that the historic preservation review process was not complete. And as a compliance person, you know, it's our understanding that the process is supposed to be complete before the permits are granted. So, the permit...the correspondence between SHPD and the County stated that the historic preservation review process was not yet complete. So, I'm, I don't understand why the permits were issued without the process being complete. And then also upon looking at the correspondence between SHPD and the project proponent's contractor, it appears that SHPD had asked for the project proponent's contractor to do consultation with the community. There are several places in the 6E review process where consultation is highlighted. The SHPD can ask the contractor to do consultation, and then consultation is required when significant...when the significance assessments determine that a property is significant under Criterion "E." And our office, the Office of Hawaiian Affairs is specifically called out in the rules as a party to be consulted with. And generally what we do is then...because we don't speak for everybody, we refer the people in that area to the project proponent to do consultation with. And in this particular case, the project proponent's archeologist was asked on multiple occasions to do consultation with the community, and in their final report they stated that they had done consultation with the community and that they had submitted their reports to OHA for review. Their reports were never submitted to OHA for review. I checked with both our intake specialist, I checked with the manager of the compliance department, and I myself looked through our Papakilo Database to see if anything had ever come in to our office about this project. So, nothing came to our office about this project. So, clearly there's a problem with the report stating that they did their consultation when in fact they did not. SHPD doesn't have the staff to be checking up on people. They kind of have to assume that what's submitted to them is true and accurate. They're very under resourced, we all know that. And that, but that's not an excuse for not going through the process properly. The process is here for a reason and it's to at least give our community a voice at the table when it comes to how historic sites are viewed and then what happens afterwards. So, I think our first involvement was looking through all this correspondence. I had a telephone meeting with the Maui archeologist to confirm my suspicions about there not being any consultation and that the correspondence that I had was all that was available and there wasn't some other document that something had happened later. And he confirmed that consultation hadn't occurred and that our request to reopen the inventory survey process was valid. We then wrote a letter to both the County and the State Historic Preservation just to put it in writing that we are requesting that this process be reopened. I didn't get a very good response from the County. I got like a voice message when I got back to the office, you know, much later, that I had sent the letter to Planning and not

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Department of Public Works. So, I didn't understand why they couldn't just pass the letter over to Public Works if I addressed it to the wrong person but apparently that didn't happen. And then we got a response back from the State Historic Preservation, and they also sent letters to the County asking for a stop work order to be issued. We, in our office we support our beneficiaries, right, to a fair and transparent environmental review process. I have other questions too about like why the EA/EIS wasn't triggered, why the SMA permit was not looked into. We see this kind of all the time as somebody who's been in compliance for over ten years, this piecemealing of projects, this, you know, avoidance of talking to people in the community, and in particular contractors do it more often than others. There's not a lot of recourse for us here. This contractor has written back and said that this is unprecedented to reopen the historic preservation review process. But I think it's also unprecedented that people lie in their reports. So, it's kind of a unique situation, I don't know, to put it mildly. And so we're at sort of an impasse now as to whether or not this project proponent is going to reopen the process which it needs to go all the way back to the beginning. You know they didn't do consultation, they should have done consultation on their significance assessments. They were asked by the SHPD to do consultation. This particular firm has been involved with the Honua'ula 670 project so they had a pool of resources at their fingertips, they didn't have to go out and look really hard for people to consult with. They could have started right there. They could have started with the Aha Moku, they can start with the Burial Council. There's a lot of places to start with, with consultation. We would have referred them to additional parties. I even offered to help facilitate the consultation. It's a part of the rules that's too often overlooked and it's one of the most important things that archeologists or cultural resource managers need to do is talk to the people in our communities. They have a lot of information about cultural sites and the meaning, the, you know, the usage, all kinds of information that's being overlooked in this sort of hasty process of, you know, inventory only. And then they make the decision about what's going to be preserved or not preserved again without any input from the community on what is a very large project area and what is a cultural landscape in Hawaii. You know there's a heiau here, there's burials there, there's sites that are associated with that, those site types. You know there...it's a big project area. They need to look at the...a cultural impact assessment needs to be done to look at practices. That's the responsibility of both the State and County to look at those cultural practices before, you know, we open things up for an agricultural subdivision. Do you have any other specific things that I'm not remembering to speak to? I think kind of the compliance with 6E and, you know, I think the...our first involvement with the project was FOIA'ing the County for the information about the farm plan which was one paragraph and preserving wiliwili trees and deer which don't go together. Even I as a non, I mean I'm a cultural resource person and not a biologist, but my first question was don't the deer eat anything that's growing? So, what happens when there's no more wiliwili? I mean I just...I kind of don't understand this, you know, agricultural subdivision with, you know, what is it, a 500-square-foot house with six bathrooms is the farming dwelling.

UNIDENTIFIED SPEAKER: Five thousand.

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MS. MORAWSKI: Sorry, 5,000-square-foot house with six bathrooms for agricultural conservation for trees that aren't actively being watered or you know? But again I think this is allowable under the rules and I can't speak anymore to that other than I personally don't really understand again why we...a 50,000-[sic]-square-foot house with six bathrooms in an extremely pristine area of the island...so we did get that information. We did share it with the community and then like I said we went on to look at the 6E process. So, as of right now we have asked for the historic preservation process, inventory process to be reopened, and SHPD has concurred with us and asked the County...asked the applicant to do that. And I think we have not heard back other than like a letter that says that they're not going to, so.

CHAIR COCHRAN: Okay, that brings us to where we're at today then. Thank you. Anyone have questions or follow-ups for Ms. Morawski? Ms. King?

COUNCILMEMBER KING: Thank you, Chair. I'm a non-voting Member so I've been trying to do more listening but I think with my community here I'm pretty much shell shocked about this whole thing and how this has been allowed to go so far. I wanted to ask Mr. Goode about...because I think he made a comment that the stop work was lifted. But so is it...are we going to stop work right now or are they allowed to go ahead?

MR. GOODE: Madam Chair and Ms. King --

CHAIR COCHRAN: Yes.

MR. GOODE: --my recollection was that it was but, you know, hearing some of the testimony I'm not sure. So, again my knowledge is very limited on this so I have to look into it and I'm sure that'll probably be one of the questions the Committee will ask.

COUNCILMEMBER KING: Okay, yeah, because it sounds like it should be. We gotta check into this. Chair, one of my questions overall would be what is Maui County's liability in this? You know how complicit were we in allowing this to get this far? And have we violated any of the HRS Administrative Rules as was talked about earlier? You know there's some administrative rules that talk about how we're supposed to preserve and...identify and preserve our historic properties. And so that's very worrisome. It's very worrisome to me that the extra work that was done on non-permitted lots was allowed to go on and that, you know, there's obviously something not right about this if you're doing construction in the middle of the night so that nobody knows about it. So, I just have, I have a lot of the same concerns that the community does. And I really want to thank the two folks who came over to do the presentation. And especially to hear from OHA because we don't have a lot of interaction as the Council, as the County Council from your perspective, so I appreciate your candor. And I appreciate all the folks that got together to do this presentation and inform us. I personally do dive at that site. I know that Ahihi-Kinohiwa site and I know how pristine it is and it breaks my heart along with everybody else to think that things like this are

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affecting it and have not even been fully permitted and hasn't been fully vetted. I see this almost as headed towards what happened with the Superferry where there was a lawsuit and then there was a determination by OEQC, the Office of Environmental Quality on whether or not an EIS should be done. You know maybe that has to go to our higher courts in our State to make that determination, but that determination was made for the Superferry and that we're kind of in the same situation where who's going to make that determination? And if we failed in our obligation to make that determination then, you know, I...that's probably where it's going to go. And these things keep costing us a lot of money as a County and as a State in lawsuits. So, aside from the fact that it's costing us cultural, our cultural history of our site, of our place that we're in and the runoff onto the reefs and the destruction of our environment which also is threatening our tourism industry on top of that. That we can see our own County and State rules being violated, and it's really disturbing to sit here and hear that we, you know, the conjecture that there's no recourse for us. So, I don't know what can be done today because I know this is not supposed to be a day for deliberating. But I just wanted to express those views and say that this...thank everybody for coming out and expressing their concern as well.

CHAIR COCHRAN: Thank you, Ms. King? Ms. Sugimura?

COUNCILMEMBER SUGIMURA: Yeah, thank you. So, listening to this, I'm glad to see OHA here also. I'm just curious in the whole process 'cause we've heard a lot through other meetings about SHPD and, you know, just 6E and the regulations with Burial Council. So, where does OHA fit in? I'm glad to see you here.

MS. MORAWSKI: Where do we fit in? Well...

CHAIR COCHRAN: You need to use the microphone please. The microphone. Thanks.

MS. MORAWSKI: We fit in as, we are considered a Native Hawaiian organization so we're kind of like the first stop for the consultation process for Federal, State, and private property law. So, we deal with a lot of Section 106 and things like that, and we also review the 6E process. I mean our program, the program that I work for is the compliance program so we're essentially making sure that people comply with the rules. And again, that's kind of how I got drawn into this project because there was some non-compliance from our perspective. And like I...as I said we are a Native Hawaiian organization and but we don't speak for everyone and what we do is we can recommend consulting parties for a project in...for that particular area. Someone, you know, calls us up or contacts us and says hey, I have this project in Honua`ula, you know, I need to talk people, who should I talk to? And then we can give them some families or some groups that they can start their consultation with. And we always let people know of course, you know, these are the places to start and then like they might be able to take you further. So, we kind of serve as an advisory like in that respect. We give advice about who to consult with and then we also look at to make sure that the rules are being followed.

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COUNCILMEMBER SUGIMURA: Very good. So, in terms of overall then when a project comes to us they also come to you as well as goes to SHPD?

MS. MORAWSKI: Yes. Yeah, so we review --

COUNCILMEMBER SUGIMURA: Oh, so you're like one of the check off.

MS. MORAWSKI: --like...but we don't get a chance to review things until it's submitted to us. Like had this project gone through the SMA process, the SMA permit would have come to our department and we would have reviewed that SMA permit. But if it doesn't come to us, I think we're just like everybody else, we hear about it later when the bulldozers are there and then people are calling us and screaming about what is going on over here, you know, and we're like oh, you know, nothing came to us. We generally track things through the TMK number so we can look in our database to see if we intake'd any document that required review for that particular TMK. So, if something didn't come, you know, they didn't submit the SMA permit, they didn't submit this to us. Like for example they didn't submit the Archeological Inventory Survey to us, that was required by 6E and requested numerous times by the SHPD in correspondence back and forth to the contractor. That's how we would get the review. But like I said it has to come to us, we're not out asking people for their reports --

COUNCILMEMBER SUGIMURA: Correct.

MS. MORAWSKI: --or...

COUNCILMEMBER SUGIMURA: Same thing...excuse me. So, thank you. Same thing with SHPD I think, right? When they...when people apply for a permit through Public Works --

MS. MORAWSKI: Yeah, I can't...

COUNCILMEMBER SUGIMURA: --then they...

MS. MORAWSKI: I did used to work at SHPD so yes.

COUNCILMEMBER SUGIMURA: So, they receive --

MS. MORAWSKI: They receive --

COUNCILMEMBER SUGIMURA: --a request and...

MS. MORAWSKI: --things to review and then it comes, it kind of comes...submitted to them, they review it within the timeframe, and then they submit their comments and recommendations.

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COUNCILMEMBER SUGIMURA: And so you would get a copy of that too then? You're brand new to this process. I didn't know that OHA was part of the checklist. I thought it was only SHPD and the review through that.

MS. MORAWSKI: Only if certain conditions within like their...while I believe that any archeological undertaking should involve consultation with the community 'cause it's the cornerstone of understanding our cultural and historic sites is our people. But our nexus to being involved is like through specific parts of specific rules like within the AIS rules there SHPD can request...like if they know there's a lot of community members that care about a specific area, they can like request in writing that consultation be done. So, that's one way that the consultation nexus can be. And then there's also the conditions of consultation with OHA where we're named if a site is determined to be significant under Criterion "E."

COUNCILMEMBER SUGIMURA: Very good. Thank you.

CHAIR COCHRAN: I have...so, Mr. Keith Scott, I'm kind of trying to vet through this stack of paperwork and I see a lot of the stuff is signed by you, prepared by you, written by you. And we're talking about piecemeal'ing and parceling of this entire project, but I'm trying to vet through this and a lot of the reports are just talking about the gate. Then the other one's about the dwelling, and then the other one's about the well, and then the other one's about the fence. So, it seems very piecemealy and then when I go into your comments you're saying, you know, the amount is under the 500,000 for the major SMA. It's, states a lot of will not, unlikely proposed project will involve an irrevocable commitment to loss of destruction of any natural or cultural resources. It's, you know, quality...will not have adverse effect on the quality of environment and ecology. I mean these are kind of rubberstamped in every single report you wrote here. So, kind of want some comments on your behalf as to what is all that? Because obviously what I saw in this presentation, I don't agree with your comments written here. Almost seems like you're the main dude that kind of vetted through all the different parts of this project and you've written a pretty clean bill of health for everything, but that's not what I gathered through this presentation, Mr. Scott. Thank you. The floor is yours.

MR. SCOTT: And thank you for your question. As a point of fact I did review two of the projects that are part of what has been discussed here today. The major one is the farm dwelling or the single-family dwelling. I did not process that at all. I processed the gate and the brine injection well. And those are relatively minor and seemed to have very little effect. I can't say anything with respect to the roadway which is a major concern here because I didn't process any permit for that. I had no knowledge that that was going on.

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CHAIR COCHRAN: Okay. So, the gate was just kind of in the middle of nowhere with no road to gate in or gate out? I mean I don't...so I guess who are the other people here? I mean who did the road, who did all the parceling?

MR. SCOTT: My understanding is that the road was existing as a farm road or an access road. It was not paved at the time. But again I didn't process any permit for that. The gate is at Makena Road so it's not up further.

CHAIR COCHRAN: Okay. Mr. Kekiwi, do you have some comments? Yeah sure, you want to...and just speak into your microphone. Thank you.

MR. KEKIWI: So, just to clarify, the gate that you approved the SMA for is for Parcel 135 and the location of the gate right now is down on ATC that you speak of down by Makena Road?

MR. SCOTT: It's down by Makena Road, it's Parcel 108 and we did a corrected permit that included 108.

MR. KEKIWI: Okay, thank you.

CHAIR COCHRAN: All right. So, obviously a lot more questions. I have actually like a whole page of questions for Public Works and I guess that will be forthcoming. We shall provide these to the Department and hopefully can get more vetting through further questioning. But I just want to thank very much the presenters here, Mr. Kekiwi, Ms. Rothman, and Ms. Morawski of OHA. We just definitely are left with a lot of question marks for sure, a lot of disappointment and frustration. Ms. King brings up a good point, you know, that where is our kuleana in this as the County? We are Councilmembers, Administration is, you know, kuleana are the departments, Public Works and Planning. I see a lot of Mr. Spence's name written all over these pages but he's not here anymore, we have Mr. Alueta. So, it's kind of like new people at the table going well, I wasn't here. So, it's one of those things where we're...but again I don't think any of us would know this if Ms. Stiles didn't notice all these trucks going back and forth, and Mr. Kekiwi and the Aha Moku Council and people in the neighborhood, right, being maka`ala for all of us. So, I want to thank everybody for coming forward 'cause it is very heartbreaking for me and I know for all of us. And I'm sorry we don't have answers and we don't have solutions today for all this because as Mr. Hokama mentioned this isn't the first time we've been through these situations. And to sit here and to have to talk about it again and again it's very, it's hard. So, no deliberations today, Members and the community. But I just want to say again thank you for everyone. But this is going to be deferred because we will continue the discussion on this, we will get to the bottom of it and we will make sure that we do...something positive can come out of this. You know whether it's a learning experience, whether it's...well, it has to be beyond that, it has to be our change in Code to be more protective of our sites and our culture and our future and our ocean. I mean there's a

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NARS below all this for heaven's sake. So, anyhow, Members, any further discussion or questions/comments at this time? Okay. Ms. King?

COUNCILMEMBER KING: Yeah, Chair, you know, I know this is, there's no decision making and we're not supposed to be discussing, but I just would like to ask Public Works on behalf of the community that, to find out about where the stop work is at and if it's been lifted to put it back on with the number of questions that are here. You know, I'm just asking on behalf of our community.

CHAIR COCHRAN: Thank you. Got that, Director Goode?

MR. GOODE: Chair and Ms. King, I'll look into it and we'll take everything into consideration.

CHAIR COCHRAN: Thank you, Director. Okay, Members...again thank you, community. And if there's no further discussion, this shall be deferred. And this meeting is adjourned. . . . *(gavel)* . . .

ADJOURN: 3:55 p.m.

APPROVED BY:



ELLE COCHRAN, Chair
Infrastructure and Environmental
Management Committee

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Transcribed by: Daniel Schoenbeck


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CERTIFICATE

I, Daniel Schoenbeck, hereby certify that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 31st day of August, 2018, in Kula, Hawaii

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Daniel Schoenbeck