STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

November 10, 2016

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 08OD-110A

Oahu

Denial of Petitions for Contested Case Hearings filed on October 24, 2016 by (i) Makani Pono 'o Kahuku, and (ii) Kahuku Community Association, Regarding Board Action of October 14, 2015, Agenda Item D-12, *Issuance of Direct Lease to Na Pua Makani Power Partners, LLC, Lessee, for Wind Power Project Purposes; Kahuku-Malaekahana, Koolauloa, Oahu, TMK: (1) 5-6-008:006*

BACKGROUND:

At its meeting of October 14, 2016, under agenda item D-12, the Board of Land and Natural Resources approved the issuance of a direct lease to Na Pua Makani Power Partners, LLC (NPM) for a wind energy project at Kahuku, Oahu. A copy of the approved Board action is attached as Exhibit I.

During public testimony on the item, Kent Fonoimoana testified in opposition to the issuance of the lease to NPM. Mr. Fonoimoana stated that he was the co-chair of Makani Pono 'o Kahuku and the president of Kahuku Community Association. Before the Board made a decision in the lease request, Mr. Fonoimoana orally requested a contested case hearing. Mr. Fonoimoana's request for a contested case hearing did not specifically address whether the request was made on behalf of Makani Pono 'o Kahuku and/or Kahuku Community Association.

After Mr. Fonoimoana made the oral request for a contested case, the Board first denied the request for a contested case hearing and then approved the issuance of the lease.

RECEIVED PETITIONS:

On October 24, 2016, the Department received two written petitions for a contested case hearing: one from Makani Pono 'o Kahuku (MPK) and one from Kahuku Community Association (KCA). The petitions are signed by Mr. Fonoimoana. Copies of the

petitions are attached as Exhibits II and III, respectively.

DISCUSSION:

The issue before the Board today is whether either MPK or KCA is entitled to a contested case hearing. Pursuant to Hawaii Administrative Rule (HAR) § 13-1-29, an oral or written request for a contested case hearing must be made to the Board no later than the close of the meeting at which the subject matter of the request was scheduled for disposition. Additionally, an agency or person requesting a contested case must also file a written petition with the Board for a contested case no later than ten calendar days after the close of the Board meeting at which the matter was scheduled for disposition.

If the oral request for contested case hearing Mr. Fonoimoana made at the October 14, 2016 Board meeting was made on behalf of MPK and/or KCA, then the Board has already denied the request and it need not be revisited. If Mr. Fonoimoana did not make the request on behalf of MPK and/or KCA, then those entities did not comply with the HAR § 13-1-29 because the entities did not make a request for a contested hearing before the closing of the October 14, 2016 meeting, and the petitions can be denied on that basis alone.

Even if the petitions for contested case hearing were properly before the Board today on their merits, neither MKP nor KCA is entitled to a hearing. Pursuant to Hawaii Revised Statutes § 91-1(5), a contested case hearing is one where the "legal rights, duties, or privileges...are required by law to be determined after an opportunity for agency hearing." The Board's regularly scheduled sunshine meeting is not an agency hearing as that term is used in the statute.[1] A contested case is "required by law" if the statute or rule governing the activity in question mandates a hearing prior to the administrative agency's decision-making, or if a hearing is mandated by due process.[2]

There is no statute or rule requiring a contested case in the context of the Board's decision to issue a direct lease to a renewable energy producer such as NPM. Nor do the due process clauses of the State or Federal constitutions provide a basis for a contested case hearing. Hawaii's courts have developed a two-step analysis to determine if a claimant is entitled to a due process hearing. First, the court looks at whether the particular interest is

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1 An "agency hearing" is defined by section 91-1(6) as "such hearing held by an agency immediately prior to a judicial review of a contested case as provided in § 91-14." *See Pele Defense Fund v. Puna Geothermal Venture*, 77 Hawaii 64, 69, 881 P.2d 1210, 1215 (1994) (holding that a Board sunshine meeting is "a public hearing required by law" but not "a contested case hearing").

2 The Fourteenth Amendment to the United States Constitution provides, in part, "nor shall any state deprive any person of life, liberty, or property, without due process of law." Article I, § 4 of the Hawaii Constitution provides in part, "[n]o person shall be deprived of life, liberty or property without due process of law."

"property" within the meaning of the due process clauses. Second, the court determines what specific procedures are required to protect the interest asserted.[3]

> "To have a property interest in a benefit, a person clearly must have more than an abstract need or desire for it. He must have more than a unilateral expectation of it. He must, instead, have a legitimate claim of entitlement to it."[4]

In this instance, neither MPK nor KCA can show a property interest in the premises to be leased to NPM, or that the lease of the premises to NPM poses any actual or threatened injury to MPK, KCA or their members.

In summary, neither of the petitioners has a "right" to the premises to be leased to NPM. The State is the owner of the lands, and has the discretion to lease the land to NPM for its wind energy project. Petitioners are, therefore, not entitled to a contested case hearing.

RECOMMENDATION:

That the Board deny the petitions for a contested case hearing filed by Makani Pono ʻo Kahuku and Kahuku Community Association, pursuant to HAR § 13-1-29.1.

Respectfully Submitted,

Kevin E. Moore
Assistant Administrator

APPROVED FOR SUBMITTAL:

Suzanne D. Case, Chairperson

3 *Brown v. Thompson*, 91 Haw. 1, 10, 979 P.2d 250, 260 (1999).

4 *In re Roberts Tours and Transp., Inc.*, 104 Haw 98, 106, 85 P.3d 623, 631, quoting *Board of Regents of State Colleges v. Roth*, 408 U.S. 564, 577 (1972).

LAND BOARD ACTION OF

OCTOBER 14, 2016, ITEM D-12

EXHIBIT I

D-12

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

October 14, 2016

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

08OD-110A

OAHU

Issuance of Direct Lease to Na Pua Makani Power Partners, LLC, Lessee, for Wind Power Project Purposes; Kahuku-Malaekahana, Koolauloa, Oahu, TMK: (1) 5-6-008:006

APPLICANT:

Na Pua Makani Power Partners, LLC (NPM), a Delaware limited liability company.

LEGAL REFERENCE:

Sections 171-6, -35, -95, and -95.3, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Government land situated at Kahuku-Malaekahana, Koolauloa, Oahu, identified by Tax Map Key: (1) 5-6-008:006, as shown on the attached maps labeled Exhibit 1.

AREA:

Total Parcel Area: 231.927 acres, more or less

ZONING:

State Land Use District: Agricultural
City and County of Honolulu LUO: Agricultural 1 and 2

TRUST LAND STATUS:

Non-ceded. Government land acquired since statehood from the Estate of James Campbell, Deceased.

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON
October 14, 2016 Up.

D-12

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Vacant and unencumbered, with the exception of a right-of-entry permit dated March 3, 2016 (ROE #4220) issued to the Division of Forestry and Wildlife for a five-acre portion of the premises to be used for mitigation and recovery of *Abutilon menziesii*. The Board approved the issuance of the permit at its meeting of February 26, 2016, under agenda item D-14, as amended.

LEASE TERM:

Forty (40) years with the option for NPM to terminate early under certain circumstances. See remarks section below.

COMMENCEMENT DATE:

The first day of the month to be determined by the Chairperson.

LEASE CHARACTER OF USE:

The lease character of use is a wind power project site. The details are set forth at Section 13 of the proposed lease form attached hereto as Exhibit 2.[1]

ANNUAL RENT:

The minimum annual rent for the first 20 years of the lease term has been determined by an independent appraiser contracted for by the State and approved by the Chairperson, and is as follows:

Years 2-10: $120,000 per year
Years 11-20: $150,000 per year

Additionally, NPM will be required to pay percentage rent of 2.5% of gross revenue as defined in the lease, to the extent such amount exceeds the minimum annual rent in any one year. Pursuant to HRS Section 171-6(7), NPM has requested a waiver of rent for the first year of the lease as its proposed use of the land will require the placement of substantial improvements on the property in order for NPM to utilize the site for its wind energy project. The proposed lease grants the one-year rent waiver.

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1 Exhibits A and A-1 to the proposed lease form, which are the map and description of the premises respectively, are being prepared by DAGS Survey Division and will be attached to the final lease, if approved. Exhibit D of the proposed lease form, which is the environmental site assessment for the property, is omitted as an attachment due to its length, but will be included in the final lease in whole or in part, if the lease is approved.

METHOD OF PAYMENT:

Semi-annual payments, in advance.

RENTAL REOPENINGS:

Rent for the first 20 years of the lease has been determined by independent appraisal. Rent will be reopened at the 21st year of the lease and at "Repowering," defined in the proposed lease as follows:

> "Repowering" means: (i) the renewal or replacement of the majority (more than 80%) of the wind turbines as evidenced by, but not limited to, contemporaneous replacement of the wind turbines with different models, or (ii) a significant modification to the portion of the Wind Project located on the premises such that a significant revision to the existing land use permit or a new land use permit is required for the premises. The following shall not constitute Repowering: (1) reuse of the Project Improvements, including, without limitation, roads, erosion control and premises access improvements, meteorological towers or transmission interconnection related to the premises, (2) replacement of any Wind Project substation for any reason, (3) replacement of wind turbines on the premises with substantially the same make and model in the same locations, or (4) replacement of any or all of the wind turbines and Project Improvements on the premises as a result of casualty or loss.

PERFORMANCE BOND:

$1,500,000.

PROPERTY CHARACTERISTICS:

Utilities – There is no existing electrical service to the property, although distribution lines are located in the vicinity. There are no public water systems or public water wells on the property. There is no wastewater system servicing the property.
Slope – 2-40%
Elevation – From 72 feet to 614 feet above mean sea level.
Rainfall – Average annual rainfall is between 45-60 inches.
SCS Soil Series – Predominantly Paumaulu-Badland complex, with smaller areas of Paumaulu silty clay, Haleiwa silty clay, Kaena clay, and Lahaina silty clay.
Land Study Bureau – Category E (least productive soils).
Legal access to property – Staff has verified that there is legal access off of Kamehameha Highway via local roads in the area to lands under the jurisdiction of the Department of Agriculture (DOA) under Executive Order No. 3867. The DOA lands are adjacent to the subject property. NPM reports that DOA is agreeable to granting NPM an easement over roads on the DOA lands to reach the subject property.

Subdivision – Staff has verified that the subject property is a legally subdivided lot.

Encumbrances – Staff has verified that there are no encumbrances on the property with the exception of ROE #4220 to DOFAW for a five-acre portion of the premises to be used for mitigation and recovery of *Abutilon menziesii.*

Environmental – A Phase I Environmental Site Assessment dated May 20, 2014 found that the subject parcel is "vacant wooded and scrub-vegetated land, with no evidence of past or current agricultural use." No recognized environmental conditions were identified with respect to the property.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Final Environmental Impact Statement (FEIS) for the wind project was accepted by the Board of Land and Natural Resources at its meeting of July 22, 2016, Item D-11, and published in the Office of Environmental Quality Control's The Environmental Notice on July 23, 2016. The Board's acceptance letter was published in The Environmental Notice on August 8, 2016.

DCCA VERIFICATION:

Place of business registration confirmed:	YES X	NO __
Registered business name confirmed:	YES X	NO __
Applicant in good standing confirmed:	YES X	NO __

APPLICANT REQUIREMENTS:

1. Pay for the costs of public notice pursuant to section 171-16, if applicable.

BACKGROUND:

The State is the fee simple owner of certain real property containing an area of approximately 231.927 acres, described as Lot 1168, Map 137, Land Court Application 1095, Kahuku-Malaekahana, Koolauloa, Oahu.

At its August 8, 2008 meeting, under agenda item D-10, the Board of Land and Natural Resources (i) approved the withdrawal of the premises from Governor's Executive Order 3867, (ii) approved in principle the issuance of a direct lease to West Wind Works, LLC (West Wind) covering the premises, (iii) authorized the Department of Land and Natural Resources to negotiate exclusively with West Wind for a direct lease of the premises, and (iv) authorized the issuance of a right-of-entry permit to West Wind to enter upon the premises to conduct due diligence, subject to certain terms and conditions.

At its July 13, 2012 meeting, under agenda item D-14, the Board approved an amendment to the August 8, 2008 Board action by consenting to the assignment and assumption from West Wind to Na Pua Makani Power Partners, LLC (NPM) of the direct lease approved in principle, and extending the right-of-entry permit to expire on the commencement date of the lease. At its October 12, 2012 meeting, under agenda item D-

7, the Board approved an amendment to the July 13, 2012 Board action by deleting the assignment of lease and replacing West Wind with NPM as the applicant.

At its meeting of December 13, 2013, Item D-31, the Board amended its prior action of August 8, 2008, Item D-10, to authorize the Chairperson to negotiate and enter into a development agreement with NPM for the wind project as an interim agreement prior to the Board entering into a lease agreement with NPM. Subsequently, a Development Agreement between the Board and NPM was executed on December 26, 2013.

At its meeting of February 26, 2016, Item D-14, as amended, the Board approved an amendment to the Development Agreement making the following changes: (i) authorizing five acres of the proposed lease premises to be withdrawn and set aside to the Division of Forestry and Wildlife for protection of the endangered plant species, *Abutilon menziesii*; (ii) allowing the Development Agreement to be extended up to March 31, 2018;[2] (iii) allowing NPM to secure a Habitat Conservation Plan and Incidental Take License after the issuance of the lease; (iv) allowing NPM to obtain a Conditional Use Permit from the City and County of Honolulu and provide evidence of financial ability to construct the project after the issuance of the lease but no later than March 31, 2018. An Amendment of Development Agreement instrument was prepared and signed by the parties on March 30, 2016. NPM exercised a one-year extension of the amended Development Agreement by notice dated March 31, 2016.

At its meeting of July 22, 2016, Item D-11, the Board accepted the FEIS for the wind project. The FEIS was published in The Environmental Notice on July 23, 2016. The Board's acceptance was published in The Environmental Notice on August 8, 2016.

Pursuant to Section 171-95.3, HRS, public hearings regarding the proposed renewable energy project were held in the Boardroom at the Kalanimoku Building on Wednesday, August 24 at 6:00-7:30 PM and Saturday, August 27, 2016 at 1:00-2:30 PM. Notice of the hearings was published in the Honolulu Star-Advertiser on Tuesday, August 9, 2016 as required by the statute, and was also posted on the Land Division website. The Department procured court reporters to transcribe the testimony at the hearings, and the full transcripts are attached hereto as Exhibit 3. Additionally, notice of today's Board meeting on the final approval of the issuance of a lease to NPM was published in the Honolulu Star-Advertiser on September 21, 2016 as required by Section 171-95.3, HRS, and posted on the Land Division website.

REMARKS:

The proposed wind energy project is located partly on the subject land and partly on private land in the area. The applicant is requesting a direct lease pursuant to HRS Sections 171-95 and 171-95.3 for the state-owned parcel, TMK: (1) 5-6-008:006, with an area of approximately 231.927 acres. The parcel was previously set aside to the Hawaii Department of Agriculture (DOA) via Governor's Executive Order (EO) 3867 for Kahuku Agricultural Park purposes. In order to pursue the lease for the project, the

2 The Development Agreement was previously set to expire on March 31, 2016.

parcel was withdrawn from EO 3867 by EO 4482, dated March 23, 2015. The state owned parcel is currently vacant. The applicant is also seeking to obtain a lease over adjacent private lands owned by Malaekahana Hui West, LLC, as well as access easements over state lands set aside to DOA. The total leased area plus the State-owned access is approximately 707 acres. Within the leased area, all proposed project activities would occur within a smaller approximately 464-acre project area.

NPM and the Department have negotiated a form of lease to be issued to NPM for the wind project, subject to Board approval. See Exhibit 2 attached. Some of the key terms and conditions are as follows:

Section 9. Improvements. The standard lease form requires the lessee to post a bond in a sufficient amount to complete the construction of any improvements the lessee undertakes. In this case, if the lessee were not able to complete the construction of the wind turbines for any reason, the State would not step into the lessee's shoes to complete the erection of the turbines and operate a wind farm. Rather, the State would want to ensure that any turbines or other improvements that were partially completed were removed. So this provision requires the lessee to post a bond in the amount of $100,000 per wind turbine as a removal bond.

Section 10. Ownership of Improvements. The proposed lease provides that the project improvements remain under the ownership of NPM until the expiration or earlier termination of the lease, at which NPM shall remove the improvements. The lease requires NPM to remove the wind turbine foundations to a depth of two feet below grade and otherwise restore the premises to the condition that existed prior to occupancy.

Section 13. Character of Use, subsection c, Transmission and communication facilities. NPM is seeking a reasonableness qualification on the Board's authority to approve the location of the turbines and related infrastructure and improvements to be constructed on the lease premises. Staff is agreeable to the reasonableness qualification. There is no basis to reserve to the Board the right to act unreasonably in disapproving the location of turbines, infrastructure and improvements.

Section 18. Liability Insurance. The proposed lease increases the insurance requirements from the standard $1,000,000 per occurrence / $2,000,000 aggregate to $3,000,000 per occurrence / $5,000,000 aggregate. Staff viewed this increase as prudent in light of the nature of NPM's operations.

Section 19. Bond, performance. In most of the general leases issued by the Board, the performance bond is calculated at twice the annual rent amount, which would equate to $240,000 for the first 10 years of the proposed lease. Staff recommends a higher performance bond to ensure the removal of the wind turbines at the end of the lease term. The FEIS contemplates up to nine turbines will be erected. The proposed lease form provides for a performance bond of $1,500,000, which is in addition to the removal bond mentioned in Section 9 of the lease.

Section 31. Surrender. NPM requested a one-year right-of-entry after expiration or

termination of the lease to allow it to remove its improvements and personalty from the premises. The right-of-entry is to be issued "upon reasonable terms and conditions as set forth by the Board . . . ." The alternative to the right-of-entry would be to require NPM to begin removing its improvements and personalty during the term of the lease at a time when the turbines could still be generating power under a PPA with HECO. Staff believes that authorizing a right-of-entry after lease termination for the purpose of removing improvements and personalty is a reasonable method of dealing with end of lease issues. Additionally, the surrender clause of the standard lease form requires the lessee to restore the premises to the condition that existed prior to occupancy. In the proposed NPM lease, section 10 of the lease (discussed above) covers the lessee's obligations with respect to removal of improvements at lease termination. Accordingly, the surrender provision of the proposed NPM lease is drafted to require NPM to restore the premises to the condition required by the lease.

Section 33. Hazardous materials. The standard provision was modified to provide consent to NPM's use of lubricating oil and grease, paint normally used in wind farm applications and cleaning compounds, subject to Lessee's use being within the legal and lawful regulations and standards.

Section 45. Withdrawal Right. This is a non-standard provision that gives the State the right to withdraw five acres of the lease premises and set it aside to the Division of Forestry and Wildlife for mitigation and recovery of the endangered species, *Abutilon menziesii*. The withdrawal and set-aside was approved by the Board at its meeting of February 26, 2016, item D-14, as amended. The lease requires the State to execute the withdrawal and set-aside without materially affecting NPM's plans or operations.

Section 54. Phase I environmental site assessment. The standard lease form requires the lessee to conduct a Phase I environmental site assessment prior to termination, revocation or assignment of the lease. NPM is requesting that the standard provision be qualified so that an assignment for financing purposes does not trigger a Phase I report. Staff believes this is a reasonable request and has included the financing qualification in the proposed lease.

Section 60. Lessee election of early termination of lease term. NPM can only utilize the premises if it maintains a PPA in place with HECO. Accordingly, NPM requested the right to terminate the lease if it loses the PPA. NPM would also have the right under the proposed lease to terminate the lease if it did not accept the minimum annual rent or percentage rent amount resulting from the rent reopening for years 21-40 of the lease.

Section 66. Special Conditions. The amended Development Agreement between the State and NPM imposes a number of special conditions on NPM, which are reiterated in the lease. These include: (1) obtaining a conditional use permit for the project from the City and County of Honolulu, if required, not later than two years after the date of the lease or March 31, 2018, which occurs first; (2) obtaining Board approval of a Habitat Conservation Plan and an Incidental Take License from the Division of Forestry and Wildlife for the project no later than one year after the date of the lease, or March 31, 2017, whichever occurs first; (3) providing evidence to the State of reasonable financial

ability to construct the project (e.g., balance sheets of an affiliate of Lessee or commitment (even if based on reasonable conditions, such as those provided in this Section, for financing)) no later than two years after the date of this Lease, or March 31, 2018, whichever occurs first.

NPM qualifies for the direct issuance of a lease as a renewable energy producer as defined under Sections 171-95 and -95.3 HRS. Attached as Exhibit 4 is a copy of NPM's report on the project including the information required by HRS Section 171-95.3.

At the public hearings held on the project, three people orally testified in opposition to it and one person testified in support. The opponents of the project listed a number of concerns including that Kahuku has unfairly shouldered the burden of accommodating renewable energy projects on Oahu, that the visual impacts will be significant with the wind turbines being taller than anything approved before, resulting in them being the tallest structures on Oahu, that the proposed setbacks of the turbines from schools and residences is inadequate, that there will be negative impacts to wildlife including bats and birds, that the traffic study in the FEIS was inadequate, that wind power will saturate HECO's grid so that residential users will not be able to install solar panels on their homes for electricity, that there will be significant noise impacts from the turbines, and that nobody listens to the opponents of the project. The individual who testified in favor of the project (and is also an employee of NPM) remarked that the project will improve the economy and help achieve the State's goal of 100% renewable energy. See transcripts of testimony from public hearings attached as Exhibit 3.

Several opponents of the project additionally submitted letters and emails detailing the reasons for their opposition. Copies of these letters are attached as Exhibit 5.[3]

Based on staff's review of the FEIS, the opponents' concerns were addressed in the FEIS. Staff understands, however, that the project opponents view the FEIS as inadequate. As the Board already accepted the FEIS at a prior meeting, staff does not believe it is appropriate to re-evaluate the sufficiency of the FEIS in this submittal.

There are no forest reserves, game management areas, wildlife sanctuaries, public hunting areas, public beaches or unencumbered public lands adjoining the proposed lease parcel. Accordingly, no public access is reserved in the lease to such areas. As referenced in Section 45 of the proposed lease, DOFAW is responsible for securing access to the five-acre portion of the premises to be used for mitigation and recovery of *Abutilon menziesii* (and such access is required to be outside of the lease premises).

NPM has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions. Staff

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3 Mr. Kent Fonoimoana's email dated August 25, 2016 included in Exhibit 5 contains an attachment that is a petition to former Chairperson William Aila, Jr., Governor Ige and Randy Iwase signed by numerous individuals. The entire attachment is 80 pages in length, but only the first three pages are included in Exhibit 5 to keep the length of this submittal manageable. Additionally, the petition includes the residence addresses of the signatories, and all addresses would have to be redacted if staff were to include the full petition.

believes the highest and best use of the land is for a wind energy project due to the agricultural zoning and topography of the land, and its location in an area with favorable conditions for wind energy production. In furtherance of Hawaii's Clean Energy Initiative, which sets goals for the state to achieve 100 percent clean energy by 2045 coming from locally generated renewable sources, staff recommends approval of the lease.

RECOMMENDATION:

That the Board:

1. Approve the issuance of a direct lease to Na Pua Makani Power Partners, LLC, Lessee, substantially in the form of Exhibit 2 attached hereto, subject to the conditions set forth above and further subject to:

    a. Final review and approval by the Department of the Attorney General; and

    b. Such other conditions as may be prescribed by the Chairperson which are in the best interests of the State.

2. Upon full execution of the lease by the parties, authorize the Chairperson to sign permit applications relating to the project (including, without limitation, a City and County of Honolulu Master Conditional Use Permit application) on behalf of the Board of Land and Natural Resources as landowner, subject to:

    a. Lessee providing a standard indemnity letter in the form required by the Department; and

    b. Such other conditions as may be prescribed by the Chairperson which are in the best interests of the State.

Respectfully Submitted,

Kevin E. Moore
Assistant Administrator

APPROVED FOR SUBMITTAL:

Suzanne D. Case, Chairperson

Land Board Meeting: October 14, 2016; D-12: Approved as submitted.

Approved as submitted. See attached page.

Land Board Meeting: October 14, 2016; D-12: Approved as submitted.

Approved as submitted. [2]

[2] Kent Fonoimoana opposed the project and requested a contested case; Board denied the contested case.

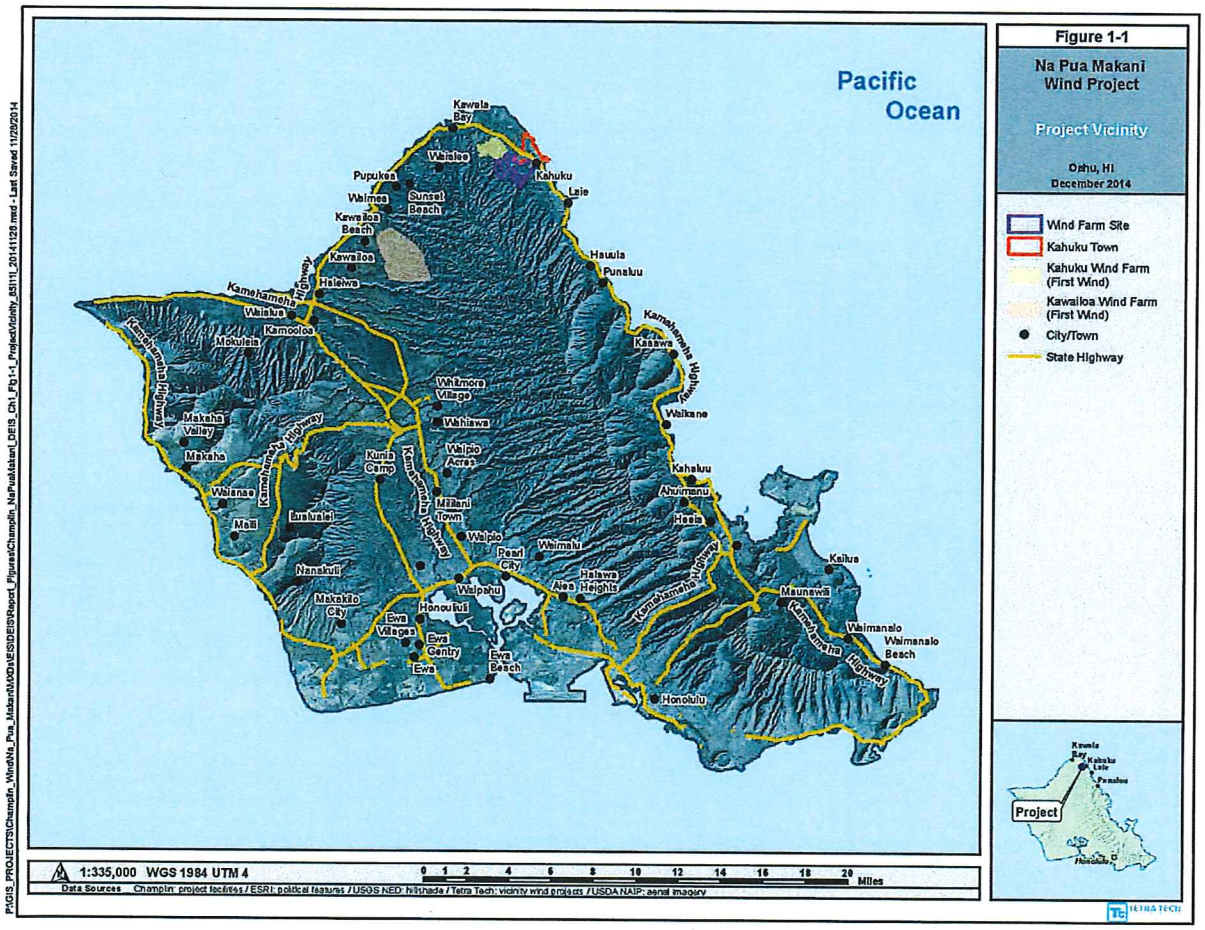

Pacific Ocean
Figure 1-1
Na Pua Makani Wind Project
Project Vicinity
Oahu, HI
December 2014
Wind Farm Site
Kahuku Town
Kahuku Wind Farm (First Wind)
Kawailoa Wind Farm (First Wind)
City/Town
State Highway
Project
1:335,000 WGS 1984 UTM 4
0 1 2 4 6 8 10 12 14 16 18 20 Miles
Data Sources: Champlin: project facilities / ESRI: political features / USGS NED: hillshade / Tetra Tech: vicinity wind projects / USDA NAIP: aerial imagery
P:\GIS_PROJECTS\Champlin_Wind\Na_Pua_Makani\MXD\AFEIS\DEIS\Report_Figures\Champlin_NaPuaMakani_DEIS_Ch1_Fig1-1_ProjectVicinity_ll8110_20141128.mxd - Last Saved: 11/28/2014

EXHIBIT 1

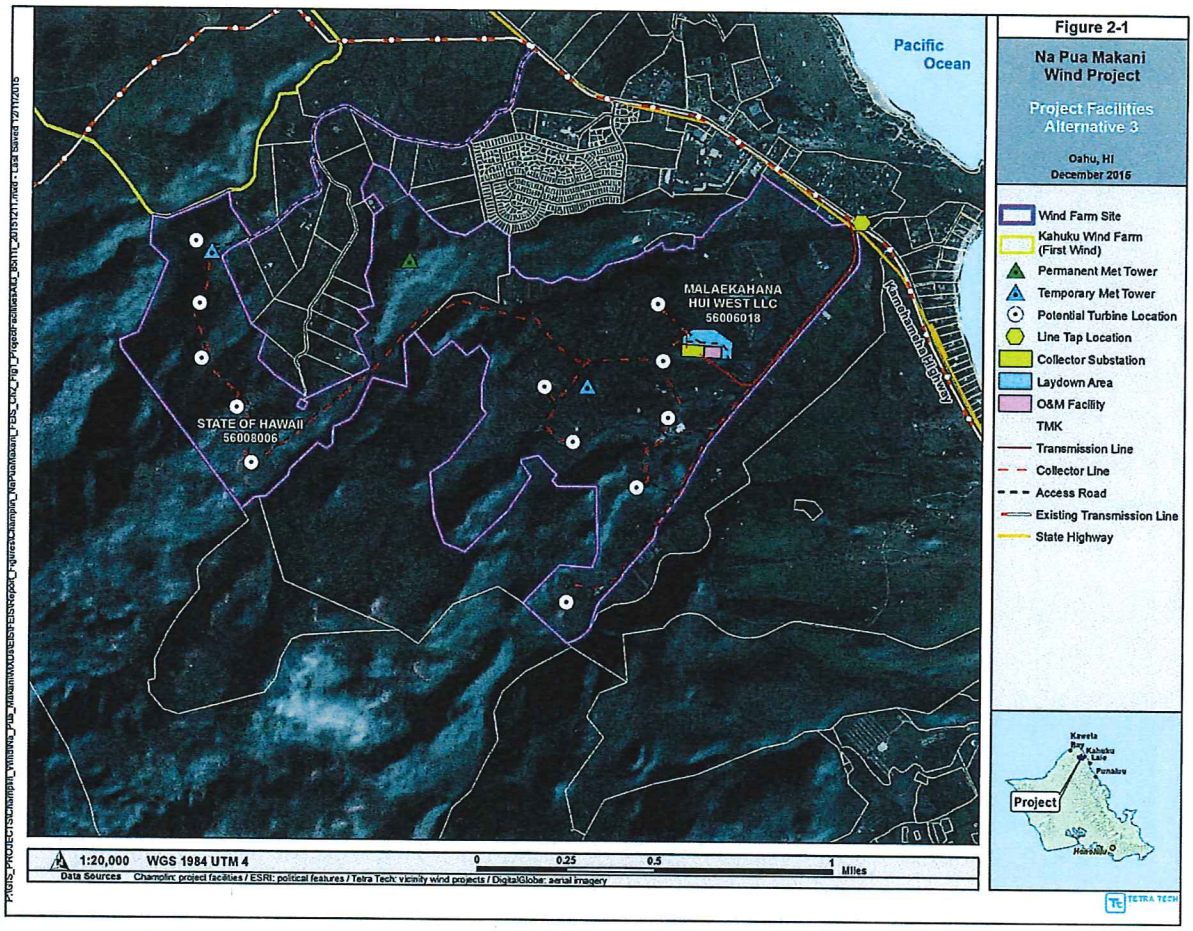
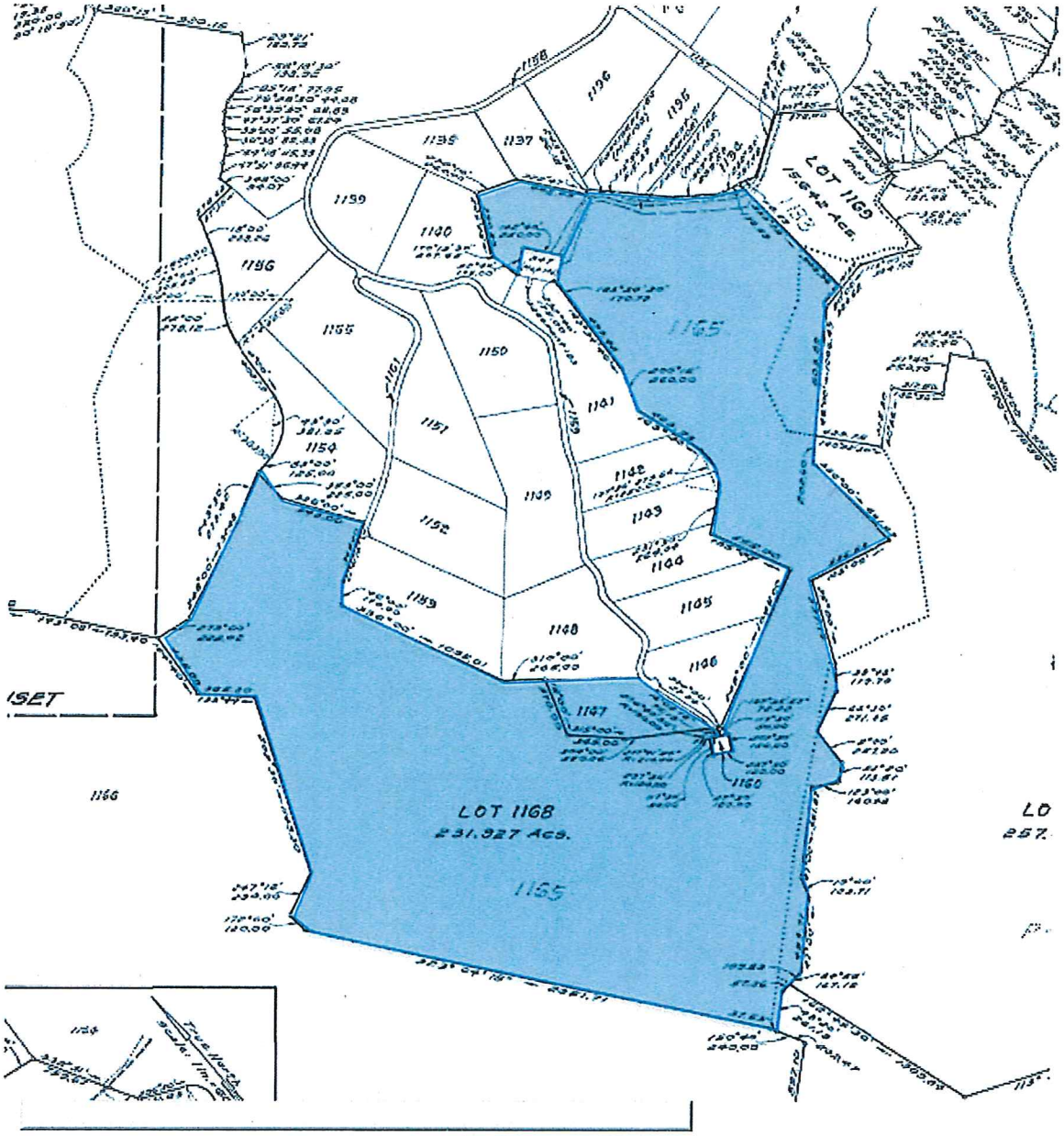

Pacific Ocean
MALAEKAHANA HUI WEST LLC 56006018
STATE OF HAWAII 56008006
Kamehameha Highway
Figure 2-1
Na Pua Makani Wind Project
Project Facilities Alternative 3
Oahu, HI
December 2015
Wind Farm Site
Kahuku Wind Farm (First Wind)
Permanent Met Tower
Temporary Met Tower
Potential Turbine Location
Line Tap Location
Collector Substation
Laydown Area
O&M Facility
TMK
Transmission Line
Collector Line
Access Road
Existing Transmission Line
State Highway
Kawela Bay
Kahuku Law
Punahou
Project
Honolulu
1:20,000 WGS 1984 UTM 4
0 0.25 0.5 1 Miles
Data Sources Champlin project facilities / ESRI: political features / Tetra Tech: vicinity wind projects / DigitalGlobe: aerial imagery
TETRA TECH

EXHIBIT 1



TAX MAP KEY: (1) 5-6-008:006

Lot 1168 of Map 137 of Land Court Application No. 1095

EXHIBIT 1

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LAND COURT SYSTEM) REGULAR SYSTEM

Return by Mail ( ) Pickup ( ) To:

Na Pua Makani Power Partners LLC
c/o Yamamoto Caliboso LLLC
1099 Alakea Street, Suite 1500
Honolulu, Hawaii 96813

Total Number of Pages:

Tax Map Key No.(1) 5-6-008-006
TCT No. 533,031

STATE OF HAWAII

DEPARTMENT OF LAND AND NATURAL RESOURCES

GENERAL LEASE NO. [* *]

between

STATE OF HAWAII

and

NA PUA MAKANI POWER PARTNERS, LLC

covering

LOT 1168, MAP 137, L.C. APP. NO. 1095
KAHUKU, KOOLAULOA, CITY AND COUNTY OF HONOLULU, STATE OF HAWAII

EXHIBIT 2

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STATE OF HAWAII

DEPARTMENT OF LAND AND NATURAL RESOURCES

GENERAL LEASE NO. S-[* *]

THIS LEASE (this "Lease" or this "lease"), made this _____ day of _____, 20___, by and between the STATE OF HAWAII, hereinafter referred to as the "Lessor," or the "State," by its Board of Land and Natural Resources, called the "Board," and NA PUA MAKANI POWER PARTNERS, LLC, a Delaware limited liability company, whose address is 2020 Alameda Padre Serra, Suite 105, Santa Barbara, California 93103, hereinafter referred to as the "Lessee."

WITNESSETH:

The Lessor, pursuant to Sections 171-35, 171-95(a)(2), and 171-95.3, Hawaii Revised Statutes, for and in consideration of the rent to be paid and of the terms, covenants and conditions herein contained, all on the part of the Lessee to be kept, observed and performed, does lease unto the Lessee, and the Lessee does lease from the Lessor the premises situate at Kahuku, Koolauloa, City and County of Honolulu, State of Hawaii, and identified herein as "Leased Premises (for Wind Farm Purposes)" or "premises", containing an area of 231.927 acres, more or less, and more particularly described in Exhibit "A" and as shown on the map marked Exhibit "A-1", attached hereto and made parts hereof.

TO HAVE AND TO HOLD the premises unto the Lessee for the term of forty (40) years commencing on the [* ____ day of _____, 20____ (the "Lease Commencement Date"), up to and including the ____ day of _____, 20____,*], subject to Lessee's rights to terminate this lease as provided in Section 60 hereof, and unless otherwise earlier terminated as hereinafter provided, the Lessor reserving and the Lessee yielding and paying to the Lessor at the Office of the Department of Land and Natural Resources, Honolulu, Oahu, State of Hawaii, an annual rental as provided hereinbelow:

A. First year rent waived. All rent shall be waived for the first year of the term of this Lease.

B. Minimum Annual Rent. Lessee's obligations to pay Minimum Annual Rent and Percentage Rent, as described below, shall commence upon the second (2nd) year of the term of this Lease. For the second (2nd) to tenth (10th) years of the term of this Lease, the Lessee shall pay a minimum annual rent ("Minimum Annual Rent") of ONE HUNDRED TWENTY THOUSAND AND NO/100 DOLLARS ($120,000.00), due in equal semi-annual installments on [* _____ 1st and _____ 1st*] of each year, payable in advance, without notice or demand. For the eleventh (11th) to twentieth (20th) years of the term of this Lease, the Lessee shall pay a Minimum Annual Rent of ONE HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS ($150,000.00), due in equal semi-annual installments on [* _____ 1st and _____ 1st*] of each year, payable in advance, without notice or demand. Should the last year of the term of this Lease be less than a full year, the Minimum Annual Rent for such partial lease year shall be prorated.

C. Percentage Rent. For the second (2nd) to tenth (10th) years of the term of this Lease, the Lessee shall pay percentage rent ("Percentage Rent") in an amount equal to TWO AND ONE-HALF PERCENT (2.5%) of Gross Revenue, as defined below, to the extent such amount exceeds the Minimum Annual Rent in any year. For the eleventh (11th) to twentieth (20th) years of the term of this Lease, the Lessee shall pay Percentage Rent in an amount equal to TWO AND ONE-HALF PERCENT (2.5%) of Gross Revenue, to the extent such amount exceeds the Minimum Annual Rent in any year. The Lessee shall also pay Percentage Rent after the twentieth year of this lease, as determined by the rental reopening Sections F and G below. For each lease year that Percentage Rent is payable, any Percentage Rent over and above the Minimum Annual Rent shall be due and payable within forty-five (45) days after the end of the lease year. Each payment shall be accompanied by a preliminary version of the Rent Report, as defined below.

D. Gross Revenue defined. "Gross Revenue" shall mean all gross revenues actually received by Lessee during the time period in question from the sale of electricity generated by wind turbines owned by Lessee located on the premises. The term "Gross Revenue" does not include: (i) any state or federal tax credits or other benefits that may be realized by Lessee under Section 45 of the Internal Revenue Code or any other tax credits or benefits; (ii) any revenue, income, sums or benefits received from any other source; (iii) funds received from debt

financings and/or equity investments and any interest earned on such funds; (iv) amounts received from a governmental or quasi-governmental body or agency as a payment, subsidy or credit in connection with or arising out of the development or construction of the Wind Project; (v) parasitic loss (i.e., electrical energy used to power wind turbine generators or any other improvements, or in connection with Wind Project operations); or (vi) sales of electrical energy for which payment is delayed or has not been received (including, without limitation, due to a default by the purchaser thereof), except that Percentage Rent payments shall be paid on any delayed payments when such payments are actually received.

E. Rent Reports. Within sixty (60) days after its due date, Lessee shall provide to Lessor a copy of its annual general excise tax return filed with the State of Hawaii, Department of Taxation. In addition the Lessee shall keep an accurate record and account of all Gross Revenue earned for the payment period in accordance with acceptable record keeping practices within the business community. Within ninety (90) days after the end of each lease year that Percentage Rent is payable, the Lessee shall forward to the Lessor itemized statements ("Rent Reports") showing the Gross Revenue actually earned for the preceding lease year. The Rent Reports shall be in reasonable and sufficient detail to enable the Lessor to verify the accuracy of the Percentage Rent payments provided for herein.

F. Rental reopenings; dates, conduct of. The Minimum Annual Rent and Percentage Rent shall be reopened and redetermined as of the day following the expiration of the twentieth (20^{th}) year of the term of this Lease (the "20^{th}-Year Reopening") and at Repowering (as defined below).

The rental for any ensuing period shall be the fair market rental at the time of reopening. At least six months prior to the time of reopening, the fair market rental, which must include both Minimum Annual Rent and Percentage Rent, shall be determined by:

(1) An employee of the Department of Land and Natural Resources qualified to appraise lands; or

(2) A disinterested appraiser whose services shall be contracted for by the Board,

and Lessee shall be promptly notified of the determination by certified mail, return receipt requested, and provided with the complete appraisal prepared by the Board or the Board's appraiser (in either case, herein referred to as the "Board's appraiser"). The determination shall be deemed received by Lessee on the date the Lessee signs the return receipt or three (3) days after mailing in such manner, whichever occurs first. Provided that if the Lessee does not agree upon the fair market rental as determined by the Board's appraiser, the Lessee must notify the Lessor in writing within thirty (30) days after receipt of the determination, and the Lessee shall appoint the Lessee's own appraiser whose name and address shall be stated in the notice. The Lessee shall provide the Board with the complete appraisal prepared by the Lessee's appraiser. Each party shall pay for its own appraiser. If the Board's and the Lessee's appraisers do not agree upon the lease rental, the Lessee and the Board shall, subject to section 171-17, Hawaii Revised Statutes, as may be amended from time to time, resolve the matter. The costs of mediation and arbitration shall be borne equally by the Lessee and the Board.

In the event that the fair market rental is not finally determined before the reopening date, the Lessee shall pay the rental as determined by the Board's appraiser until the new rent is determined, and the rental paid by Lessee shall then be subject to retroactive adjustments as appropriate.

Should the Lessee fail to notify Lessor in writing within thirty (30) days after receipt of the determination that Lessee disagrees with the fair market rental as determined by the Board's appraiser and that Lessee has appointed its own appraiser, then the fair market rental as determined by the Board's appraiser shall be deemed to have been accepted by Lessee and shall be the fair market rental as of the date of reopening.

G. Repowering. The Lessee shall notify the Lessor in writing of any intent to repower the Wind Project located on the premises no less than nine (9) months prior to Repowering. The Lessee shall be responsible for obtaining any permits or approvals necessary for any Repowering. Following receipt of a Repowering notice by the Lessee, new Minimum Annual Rent and Percentage Rent shall be renegotiated in accordance with Section F above. The Minimum Annual Rent and Percentage Rent shall be deemed to be reopened and redetermined as of the day after the Repowering has been completed.

H. Interest and service charges. The interest rate on any and all unpaid or delinquent rentals shall be at one percent (1%) per month, plus a service charge of FIFTY AND NO/100 DOLLARS ($50.00) a month for each month of delinquency.

RESERVING UNTO THE LESSOR THE FOLLOWING:

1. Minerals and waters. (a) All minerals as hereinafter defined, in, on or under the premises and the right, on its own behalf or through persons authorized by it, to prospect for, mine and remove the minerals and to occupy and use so much of the surface of the ground as may be required for all purposes reasonably extending to the mining and removal of the minerals by any means whatsoever, including strip mining. "Minerals," as used herein, shall mean any or all oil, gas, coal, phosphate, sodium, sulphur, iron, titanium, gold, silver, bauxite, bauxitic clay, diaspore, boehmite, laterite, gibbsite, alumina, all ores of aluminum and, without limitation thereon, all other mineral substances and ore deposits, whether solid, gaseous or liquid, including all geothermal resources, in, on, or under the land, fast or submerged; provided, that "minerals" shall not include sand, gravel, rock or other material suitable for use and used in general construction in furtherance of the Lessee's permitted activities on the premises and not for sale to others. (b) All surface and ground waters appurtenant to the premises and the right on its own behalf or through persons authorized by it, to capture, divert or impound the same and to occupy and use so much of the premises required in the exercise of this right reserved; provided, however, that as a condition precedent to the exercise by the Lessor of the rights reserved in this paragraph, just compensation shall be paid to the Lessee for any of Lessee's improvements taken, damaged or rendered unusable or commercially unproductive at the site(s) affected.

2. Native Tenants, prehistoric and historic remains. Any rights of native tenants, and regulatory rights and ownership rights (if any) of the State of Hawaii, over prehistoric or historic remains found in, on, or under the premises, established pursuant to state law, including Chapter 6E, Hawaii Revised Statutes.

3. Ownership of improvements. The ownership of all improvements of whatever kind or nature, including but not limited to fences and stockwater system(s) located on the premises prior to or on the commencement date of the term of

this lease, excluding those improvements constructed by Lessee prior to the term of this lease (being a temporary MET tower) or constructed during the term of this lease, unless provided otherwise.

THE LESSOR AND THE LESSEE COVENANT AND AGREE WITH EACH OTHER AS FOLLOWS:

1. Payment of rent. The Lessee shall pay the rent to the Lessor at the times, in the manner and form provided in this lease and at the place specified above, or at any other place the Lessor may from time to time designate, in legal tender of the United States of America.

2. Taxes, assessments, etc. The Lessee shall pay or cause to be paid, when due, the amount of all taxes, rates, and assessments of every description as to which the premises or any part, or any improvements on the premises, or the Lessor or Lessee in connection with the premises, are assessed or become liable by authority of law during the term of this lease; provided, however, that with respect to any assessment made under any betterment or improvement law which may be payable in installments, Lessee shall be required to pay only those installments, together with interest, which becomes due and payable during the term of this lease. All taxes and assessments for partial years during the term of this lease shall be prorated. The Lessee shall have the right, at its own cost and expense, to refuse to pay and to contest the amount or validity of any tax or assessment by an appropriate proceeding diligently conducted in good faith which shall operate to prevent the collection of any such tax or assessment so contested or the sale of the premises to satisfy the same. Pending final judgment in an appeal from any such proceeding, the Lessor shall not have the right to pay, remove, or discharge any tax or assessment thereby contested, provided that the Lessee shall protect the Lessor and the premises from any enforcement, collection or lien by adequate surety bond or other appropriate security agreed upon by the Lessor.

3. Utility services. The Lessee shall be responsible for obtaining any utility services deemed necessary by the Lessee for the Lessee's use and enjoyment of the premises and shall pay when due all charges, duties and rates of every description, including water, sewer, gas, refuse collection or any other charges, as to which the premises or any part thereof, or any improvements on the premises, or the Lessee may become

liable for during the term of this Lease as a result of the Lessee's use. Subject to the Rules of the Land Court of the State of Hawaii and the approval by the Board for any land disposition and consideration therefor, and laws, rules and regulations such as Hawaii Revised Statutes, Chapters 343 and 6E, to the extent applicable, the Lessee is hereby authorized to grant to Hawaiian Electric Company, Inc., together with its successors and assigns hereinafter referred to as "HECO," a right of entry for the premises, as HECO may require from time to time for (i) it or others to construct, own, operate and maintain interconnection and other facilities and equipment in connection with the Wind Project (e.g., poles, wire lines, underground power lines, guys, conduits and other appliances and equipment as may be necessary for the transmission of electricity to be used for light and power and communication and control circuits); and (ii) HECO or others to connect any portion of the Wind Project to its system. Subject to applicable law as aforesaid and the approval of the Board, the Lessor agrees to provide its written consent or other approval as reasonably required by HECO in connection with the same. Subject to applicable law as aforesaid and subject to approval by the Board and to the conditions approved by the Board at its meeting, the Lessor also agrees, if requested by the Lessee or HECO, to use reasonable efforts to grant directly to HECO such land rights (including, without limitation, easements, or leases) as HECO may require from time to time for the above-stated purposes.

4. Covenant against discrimination. The use and enjoyment of the premises shall not be in support of any policy which discriminates against anyone based upon race, creed, sex, color, national origin, religion, marital status, familial status, ancestry, physical handicap, disability, age or HIV (human immunodeficiency virus) infection.

5. Sanitation. The Lessee shall keep the premises and improvements on the premises in a strictly clean, sanitary and orderly condition.

6. Waste and unlawful, improper or offensive use of premises. The Lessee shall not commit, suffer or permit to be committed any waste, nuisance, strip, or unlawful, improper or offensive use of the premises or any part thereof, nor, without the prior written consent of the Lessor, cut down, remove or destroy, or suffer to be cut down, removed or destroyed, any trees now growing on the premises.

7. Compliance with laws. The Lessee, in connection with this Lease, shall comply with all of the requirements of all municipal, state, and federal authorities and observe all municipal, state and federal laws applicable to the premises, now in force or which may be in force.

8. Right to enter and inspection of premises. At reasonable times during the term of this Lease and upon prior written notice to the Lessee, the Lessor and its agents shall have the right to enter the premises and examine the state of its repair and condition, and the Lessor or the County and their agents or representatives shall have the right to enter and cross any portion of the premises for the purpose of performing any public or official duties which they are permitted by law to perform on the premises; provided, however, in the exercise of these rights and any other rights it may have under this Lease to enter upon the premises, the Lessor and the County and their agents and representatives and any persons claiming such rights under the Lessor shall not interfere unreasonably with the Lessee or the Lessee's use and enjoyment of the premises.

9. Improvements. The Lessee shall, at its own cost and expense, construct the Project Improvements (as defined below) related to the Wind Project that will be located on the premises, in accordance with plans and specifications submitted by the Lessee to and approved in writing by the Chairperson (as defined below) and in full compliance with all applicable laws, ordinances, rules and regulations, such approval not to be unreasonably withheld, conditioned or delayed. Erection of any wind turbines shall not commence until the Department of Land and Natural Resources has approved the plans and specifications for the Project Improvements as consistent with this lease, and Lessee has furnished a removal bond for all Project Improvements in the amount of $100,000 per turbine. The term of the removal bond shall survive the early termination or expiration of this lease, at least until all Project Improvements have been removed from the premises as required by this lease. The Lessee shall provide the Lessor with such a removal bond naming the Lessor as obligee. The construction and installation of the Project Improvements shall be completed free and clear from all liens, encumbrances and claims. Any grading, realigning and/or paving of any existing access road or any newly constructed access road within the premises, as may be required by the Lessee for the safe transporting of heavy equipment on the premises during the construction phase, shall be subject to all applicable laws,

including but not limited to environmental laws and approval by the Lessor, and shall be solely at the cost and expense of the Lessee. Furthermore, the Lessee shall not construct, place or install on the premises any building, structure or improvement of any kind except with the prior written approval of the Chairperson and upon those conditions the Chairperson may reasonably impose, unless otherwise provided in this Lease. The Lessee shall name the Lessor as an obligee on any bond and/or guaranty agreements received from the Lessee or its general contractor.

10. Ownership of Improvements. During the term of this Lease, all improvements constructed by or on behalf of the Lessee during or prior to the term of this Lease, including, without limitation, all additions, alterations and improvements thereto or replacements thereof and all appurtenant fixtures, machinery and equipment installed therein or therewith and all Project Improvements, shall be the property of the Lessee. At early termination of this Lease for whatever reason or expiration of this Lease, all such existing improvements constructed by or on behalf of the Lessee during or prior to the term of this Lease shall be deemed Lessee's property and be removed at the Lessee's sole expense, by the date no later than three hundred sixty-five (365) days after the expiration or earlier termination date of this Lease (the "Restoration Date"), unless the Lessor elects to assume ownership of the improvements in the case of an expiration of the term of this lease or the Lessor elects to assume ownership of the improvements if Lessee fails to remove them by the Restoration Date in the case of an early termination of this Lease. Lessee shall remove wind turbine foundations to a depth of two (2) feet below grade, and shall otherwise restore the premises to the condition that existed prior to occupancy. Those improvements of which the Lessor assumes ownership shall transfer to the Lessor free of costs and free and clear of all liens, encumbrances or claims of third parties, except as may be agreed to by Lessor in writing at the time of said assumption of ownership by Lessor. Throughout the term of this Lease, the Lessee shall not permit any claim of lien made by any mechanic, materialman, laborer or other similar liens to stand against the premises for work or labor done, services performed, or materials used or furnished to be used in or upon the premises for or in connection with any construction, improvements or maintenance or repair thereon made or permitted to be made by the Lessee or its agents or sublessees. Any liens, encumbrances or claims of third parties with respect to any of the foregoing shall be expressly

subordinate and subject to the rights of the Lessor under this Lease.

11. Repairs to improvements. The Lessee shall, at its own expense, keep, repair, and maintain all buildings and improvements now existing or hereafter constructed or installed on the premises by the Lessee in good order, condition and repair, reasonable wear and tear excepted. The Lessee shall also be obligated to repair and maintain any improvements on the premises shared with the Lessor to the extent of the Lessee's use of such improvements.

12. Liens. The Lessee shall not commit or suffer any act or neglect which results in the premises, any improvement, or the leasehold estate of the Lessee becoming subject to any attachment, lien, charge, or encumbrance, except as provided in this lease, and shall release, indemnify, defend, and hold the Lessor harmless from and against all attachments, liens, charges, and encumbrances and all resulting expenses. The Lessee shall have the right to contest any attachments, liens, charges or encumbrances recorded against the Lessor, Lessee or the premises and resulting from any works of improvement made by or for the Lessee provided (i) the Lessee contests such attachment, lien, charge or encumbrance by appropriate proceeding diligently conducted in good faith, and (ii) at the written request of the Lessor, the Lessee shall furnish a lien release bond or other security acceptable to the Lessor in the principal amount of each such attachment, lien, charge or encumbrance within sixty (60) days of said written request.

13. Character of use. Subject to applicable law and obtaining approvals from the Lessor for the improvements provided for in this lease, the Lessee shall use or allow the premises leased to be used solely for the following purpose(s) or such other purpose(s) as may be permitted by the Lessor in writing:

a) Wind resource and other evaluations. Subject to applicable law and obtaining approvals from the Lessor for the improvements provided for in this lease, the Lessee may conduct wind and weather monitoring activities and may erect, relocate, remove, repair, maintain, operate and replace anemometers and other wind and weather monitoring equipment, steel towers, concrete slabs, fences and buildings on the premises to properly operate, house, protect and otherwise facilitate the Lessee's wind and weather monitoring activities.

With the exception of the Withdrawn Land (defined below), the Lessee may locate such improvements on such portion(s) of the premises as the Lessee may determine in its sole discretion. The Lessee may conduct meteorological, biological, environmental, soil and geologic studies at the premises.

b) Wind energy conversion systems. Subject to applicable law and obtaining approvals from the Lessor for the improvements provided for in this lease, the Lessee may develop, erect, relocate, remove, repair, repower, maintain, operate and replace wind turbines and related equipment and improvements of any type and in such quantity on such portion(s) of the premises as the Lessee determines in its sole discretion, including, without limitation, those improvements listed as the Project Improvements below.

c) Transmission and communication facilities. Subject to applicable law and obtaining approvals from the Lessor for the improvements provided for in this lease, the Lessee may erect, install, relocate, remove, maintain, repair, operate and replace facilities for the storage, collection, distribution, step-up, step-down, wheeling, transmission and sale of electricity and for communications in connection with the wind turbines and related equipment, including, without limitation, the following, at such locations on the premises as Lessee shall determine with Lessor's approval, which shall not unreasonably be withheld: underground and/or overhead distribution, collection and transmission lines; underground and/or overhead control, communications and radio relay systems and telecommunications equipment; energy storage facilities; interconnection and/or switching facilities, circuit breakers and transformers; cables, wires, fiber, conduit, footings, foundations, towers, poles, crossarms, guy lines and anchors; and any related or associated improvements, fixtures, facilities, appliances, machinery and equipment.

d) Roads and access. Subject to applicable law and obtaining approvals from the Lessor for the improvements provided for in this lease, the Lessee may install and use new roads on and across the premises and use and improve any existing and future roads and access routes on the premises, except that use of existing roads and access routes on the premises shall not require Lessor's further review and approval after execution of this lease. In order to control access to the premises for the purpose of protecting the integrity of the Lessee's improvements and operations thereon, the Lessee, with

Lessor's approval, may install fences and gates on the premises along or near any or all roadways and access routes providing ingress to or egress from the premises.

e) Wind. The Lessee shall have the use and enjoyment of the free flow of wind across the premises without interference from the Lessor.

14. Assignments, etc. Except as otherwise provided in this lease, the Lessee shall not transfer, assign, or permit any other person to occupy or use the premises, or any portion thereof, or transfer or assign this lease or any interest herein, either voluntarily or by operation of law, except by way of devise, bequest, or intestate succession, and any transfer or assignment made contrary to the terms of this lease shall be null and void; provided that with the prior written approval of the Board, the assignment and transfer of this Lease, or any interest therein, may be made in accordance with current industry standards, as determined by the Board; provided, further, that prior to the approval of any assignment of lease, the Board shall have the right to review and approve the consideration paid by the assignee and may condition its consent to the assignment of the lease on payment by the Lessee of a premium based on the amount by which the consideration for the assignment, whether by cash, credit, or otherwise, exceeds the straight-line depreciated cost of improvements and trade fixtures being transferred to the assignee pursuant to the "Assignment of Lease Evaluation Policy" adopted by the Board on December 15, 1989, as amended, a copy of which is attached hereto as Exhibit "B". The premium on any subsequent assignments shall be determined as specified in the above-mentioned Evaluation Policy.

If the Lessee is a partnership, joint venture, limited liability company, or corporation, the sale or transfer of 20% or more of ownership interest, distributional interest, or stocks by dissolution, merger or any other means shall be deemed an assignment for purposes of this Section and subject to the right of the Lessor to impose the foregoing premium as set forth in Exhibit B.

15. Subletting. The Lessee shall not rent or sublet the whole or any portion of the premises, without the prior written approval of the Board; provided, however, that prior to this approval, the Board shall have the right to review and approve the rent to be charged to the proposed sublessee and

that in the case where the Lessee is required to pay rent based on a percentage of its gross receipts, the receipts of the sublessee or any subsequent sublessees shall be included as part of the Lessee's gross receipts, and the Board shall have the right to revise the rent for the premises based upon the rental rate charged to the sublessee including the percentage rent, if applicable, and provided, further, that the rent may not be revised downward.

16. Release and Indemnity. Except to the extent caused by the gross negligence or intentional acts of the Lessor or its employees, contractors or agents, the Lessee shall release, indemnify, defend, and hold the Lessor harmless from and against any claim or demand for loss, liability, or damage, including claims for bodily injury, wrongful death, or property damage, arising out of or resulting from: (a) any act or omission on the part of Lessee relating to Lessee's use, occupancy, maintenance, or enjoyment of the premises; (b) any failure on the part of the Lessee to maintain the premises and any access road or State land surrounding the premises, in the Lessee's use and control, and including any accident, fire or nuisance, growing out of or caused by any failure on the part of the Lessee to maintain the premises in a safe condition; and (c) from and against all actions, suits, damages, and claims by whomsoever brought or made by reason of the Lessee's non-observance or non-performance of any of the terms, covenants, and conditions of this lease or the rules, regulations, ordinances, and laws of the federal, state, municipal or county governments relating to this lease.

17. Costs of litigation. In case the Lessor shall, without any fault on Lessor's part, be made a party to any litigation commenced by or against the Lessee with respect to this lease or the Lessee's occupancy or use of the premises (other than condemnation proceedings), the Lessee shall pay all costs, including reasonable attorney's fees, and expenses incurred by or imposed on the Lessor; furthermore, the Lessee shall pay all costs, including reasonable attorney's fees, and expenses which may be incurred by or paid by the Lessor in enforcing the covenants and agreements of this lease, in recovering possession of the premises, or in the collection of delinquent rental, taxes, and any and all other applicable charges attributable to the premises or this lease and payable by the Lessee hereunder.

18. Liability insurance. The Lessee shall procure

and maintain, at its cost and expense and acceptable to the Lessor, in full force and effect throughout the term of this lease, general liability insurance, or its equivalent, with an insurance company or companies licensed or authorized to do business in the State of Hawaii with an AM Best rating of not less than "A-" or other comparable and equivalent industry rating, in an amount of at least $3,000,000.00 for each occurrence and $5,000,000.00 aggregate and with coverage terms acceptable to the Chairperson of the Board based on standard coverage for similar uses in the State of Hawaii. The policy or policies of insurance shall name the State of Hawaii as an additional insured. A copy of the policy or other documentation required by the Lessor shall be filed with the State of Hawaii, Department of Land and Natural Resources. For purposes of this Section 18 and Section 34 of this lease, the phrase, "other documentation required by the Lessor," or similar, shall mean such documentation as may reasonably be required by the Lessor to provide the Lessor with evidence that the insurance that Lessee is required to obtain under this lease, is being obtained by the Lessee during the term of this lease. The insurance shall cover the entire premises, including all buildings, improvements, and grounds and all roadways or sidewalks on or adjacent or abutting to the premises in the use or control of the Lessee, or although not in the control, in use by the Lessee during the term of this lease or any restoration period.

The Lessee, prior to entry and use of the premises or within fifteen (15) days from the effective date of this lease, whichever is sooner, shall furnish the Lessor with a copy of the policy(s) or other documentation required by the Lessor showing the policy(s) to be initially in force, keep copies of the policy(s) or other documentation required by the Lessor on deposit during the entire lease term, and furnish copies of like policy(s) or other documentation required by the Lessor upon each renewal of the policy(s). This insurance shall not be cancelled, limited in scope of coverage, or nonrenewed until after thirty (30) days written notice has been given to the Lessor. The Lessor may at any time require the Lessee to provide Lessor with copies of the insurance policy(s) or other documentation required by the Lessor that are or were in effect during the lease period.

The Lessor shall retain the right every five years of the term of this Lease to review the coverage, form, and amount of the liability insurance required by this lease. If, in the opinion of the Lessor, the liability insurance provisions in

this lease do not provide adequate protection for the Lessor, the Lessor may require Lessee to obtain liability insurance sufficient in coverage, form, and amount to provide adequate protection. The Lessor's requirements shall be reasonable, but shall be designed to assure protection for and against the kind and extent of the risks that may be caused by or attributable to the use of the Premises by Lessee which exist at the time a change in insurance is required. The Lessor shall notify Lessee in writing of changes in the liability insurance requirements and Lessee shall deposit copies of acceptable insurance policy(s) or other documentation required by the Lessor, with the Lessor incorporating the changes within thirty (30) days of receipt of the notice.

The procuring of the required policy(s) of insurance shall not be construed to limit Lessee's liability under this lease nor to release or relieve the Lessee of the indemnification provisions and requirements of this lease. Notwithstanding the policy(s) of insurance, Lessee shall be obligated for the full and total amount of any damage, injury, or loss caused by Lessee's negligence or neglect connected with this lease, except as may be otherwise provided in this lease.

It is agreed that any insurance maintained by the Lessor will apply in excess of, and not contribute with, insurance provided by Lessee's policy pursuant to this Section.

19. Bond, performance. The Lessee shall, at its own cost and expense, on or prior to the earlier of (i) the date one hundred eighty (180) days after the Lease Commencement Date; or (ii) the commencement of construction of the Project Improvements, procure and deposit with the Lessor and thereafter keep in full force and effect during the term of this lease (and during any additional period of time that the Lessee requires to remove the Project Improvements and restore the premises), a surety bond, letter of credit or other form of surety satisfactory to the Lessor, conditioned upon the full and faithful observance and performance by Lessee of all the terms, conditions, and covenants of this lease, in an amount equal to $1,500,000. This bond shall provide that in case of the Lessee's uncured breach or default of any of the terms, covenants, conditions or agreements of this lease, the Lessor may draw upon the bond as liquidated and ascertained damages and not as a penalty, to the extent required to remedy such uncured breach of default. This performance bond shall survive the early termination or expiration of this lease, and at least

until all improvements have been removed from the premises, and the restoration of the premises to the condition prior to the effective date of this lease, to the extent that such removal and restoration is required under this lease. In addition, after the Restoration Date, the Lessor may draw upon the bond in order to remove the Project Improvements required to be removed by Lessee hereunder, and restore the premises to its original condition, to the extent that the Lessee has failed to satisfy its obligations under this lease to do so by the Restoration Date. Any portion of a bond, security deposit or other security held by the Lessor and not applied to cure a breach or default of the Lessee under this Section or not applied to remove the Project Improvements and restore the premises as provided in this Section shall be promptly returned to the Lessee. If Lessor removes the Project Improvements pursuant to the terms of this lease, and the bonds provided under this Section 19 and Section 9 of this lease are deficient to cover Lessor's total cost for removal, then at the time of such removal, the Lessee shall after written notice from Lessor providing reasonable evidence of Lessor's total cost for removal, deposit with Lessor within thirty (30) days after such written notice, an amount equal to such deficiency to cover the Lessor's total expense. The provisions of this Section shall survive the expiration or earlier termination of this lease.

20. [Intentionally omitted].

21. Mortgage. Except as provided in this Lease, the Lessee shall not mortgage, hypothecate, or pledge the premises, any portion, or any interest in this Lease without the prior written approval of the Chairperson, which approval shall not be unreasonably withheld or delayed, and any mortgage, hypothecation, or pledge without the approval shall be null and void.

Upon due application and with the written consent of the Chairperson, the Lessee may mortgage this Lease, or any interest, or create a security interest in the leasehold of the premises. If the mortgage or security interest is to a recognized lending institution in either the State of Hawaii or elsewhere in the United States, the consent may extend to foreclosure and sale of Lessee's interest at the foreclosure to any purchaser, including the mortgagee, without regard to whether or not the purchaser is qualified to lease, own, or otherwise acquire and hold the land or any interest. The interest of the mortgagee or holder shall be freely assignable.

The term "holder" shall include an insurer or guarantor of the obligation or condition of the mortgage, including the Department of Housing and Urban Development through the Federal Housing Administration, the Federal National Mortgage Association, the Veterans Administration, the Small Business Administration, Farmers Home Administration, the United States Department of Agriculture, or any other Federal agency and their respective successors and assigns or any lending institution authorized to do business in the State of Hawaii or elsewhere in the United States; provided, that the consent to mortgage to a non-governmental holder shall not confer any greater rights or powers in the holder than those which would be required by any of these Federal agencies.

Should the Lessee mortgage, hypothecate, or pledge the premises, any portion, or any interest in this Lease to any person(s) in accordance with and as permitted in this Section, then such person(s) are sometimes herein referred to individually, as a "Lender", and collectively, as the "Lenders".

22. Breach. Time is of the essence in this Lease. If (a) the Lessee shall fail to pay the rent, or any part thereof, at the times and in the manner provided in this lease and this failure shall continue for a period of more than thirty (30) days after delivery by the Lessor of a written notice of breach or default and demand for cure, by personal service, registered mail or certified mail to the Lessee and to each holder of record having a security interest in the premises, or (b) the Lessee shall become bankrupt, or shall abandon the premises, or if this lease and premises shall be attached or taken by operation of law, or if any assignment is made of the Lessee's property for the benefit of creditors, or if Lessee shall fail to observe and perform any of the covenants, terms, and conditions contained in this lease and on its part to be observed and performed, and said breach or default shall continue for a period of more than sixty (60) days after delivery by the Lessor of a written notice of breach or default and demand for cure, by personal service, registered mail or certified mail to the Lessee at its last known address and to each holder of record having a security interest in the premises, the Lessor may, subject to the provisions of Section 171-21, Hawaii Revised Statutes, and subject to such additional period(s) of time to cure such breach or default as the Lessor may allow for good cause, at once re-enter the premises, or any part, and upon or without the entry, at its option, terminate this lease without prejudice to any other remedy or right of

action for arrears of rent or for any preceding or other breach of contract; and in the event of termination, at the option of the Lessor, all buildings and improvements constructed or installed upon the premises by the Lessee shall remain and become the property of the Lessor or shall be removed by the Lessee, subject to the Lessee or any Lenders electing to remove any or all of the Project Improvements; furthermore, the Lessor shall retain all rent paid in advance by the Lessee to be applied to any damages incurred by the Lessor.

23. Right of holder of record of a security interest. Whenever any notice of breach or default is given to the Lessee under the terms of this Lease, a copy of the notice shall be delivered by the Lessor to all holders of record of any security interest in the premises whose security interest has been recorded with the Lessor. In the event the Lessor seeks to forfeit the privilege, interest, or estate created by this lease, each recorded holder of a security interest may, at its option, cure or remedy the breach or default, if the same can be cured or remedied, by the payment of money or, if such is not the case, by performing or undertake in writing to perform all the terms, covenants, restrictions, or conditions of the lease capable of performance by said holder, as determined by the Lessor, within thirty (30) days, for any default or breach of rent payment, or within sixty (60) days, for any other default or breach, from the date of receipt of the Lessor's notice of breach or default, or within an additional period allowed by Lessor for good cause, and add the cost thereof to the mortgage debt and the lien of the mortgage. This lease shall not be subject to the requirements in Section 171-14, Hawaii Revised Statutes. Upon failure of the holder to exercise its option, the Lessor may: (a) pay to the holder from any moneys at its disposal, including the special land and development fund, the amount of the mortgage debt, together with interest and penalties, and secure an assignment of the debt and mortgage from the holder or if ownership of the privilege, interest, or estate shall have vested in the holder by way of foreclosure, or action in lieu thereof, the Lessor shall be entitled to the conveyance of the privilege, interest, or estate upon payment to the holder of the amount of the mortgage debt, including interest and penalties, and all reasonable expenses incurred by the holder in connection with the foreclosure and preservation of its security interest, less appropriate credits, including income received from the privilege, interest, or estate subsequent to the foreclosure; or (b) if the property cannot be reasonably reassigned without loss to the State, then terminate

the outstanding privilege, interest, or estate without prejudice to any other right or remedy for arrears of rent or for any preceding or other breach or default and use its best efforts to redispose of the affected land to a qualified and responsible person free and clear of the mortgage and the debt thereby secured; provided that a reasonable delay by the Lessor in instituting or prosecuting its rights or remedies under this Section shall not operate as a waiver of the right or to deprive it of a remedy when it may still otherwise hope to resolve the problems created by the breach or default involved. Section 171-19, Hawaii Revised Statutes, to the contrary notwithstanding, the proceeds of any such redisposition shall be applied, first, to reimburse the Lessor for costs and expenses in connection with the redisposition; second, to discharge in full any unpaid purchase price or other indebtedness owing the Lessor in connection with the privilege, interest, or estate terminated; third, to the mortgagee to the extent of the value received by the State upon redisposition which exceeds the fair market lease value of the land as previously determined by the State's appraiser; and fourth, to the owner of the privilege, interest, or estate.

24. Condemnation. If at any time, during the term of this lease, any portion of the premises should be condemned for public purposes by any county or city and county, or any other governmental agency or subdivision, the rent shall be reduced in proportion to the value of the portion of the premises condemned. The Lessee shall be entitled to receive from the condemning authority (and not from the Lessor unless the Lessor is the condemning authority) compensation for the economic loss incurred by Lessee from such condemnation, including, without limitation, the proportionate value of the Lessee's improvements so taken in the proportion that it bears to the unexpired term of this lease; provided, that the Lessee may, in the alternative but shall not be required to, remove and relocate its improvements to the remainder of the premises occupied by the Lessee and seek such costs of relocation from the condemning authority. The Lessee shall not by reason of the condemnation be entitled to any claim against the Lessor for condemnation or indemnity for leasehold interest and all compensation payable or to be paid for or on account of the leasehold interest by reason of the condemnation shall be payable to and be the sole property of the Lessor. The foregoing rights of the Lessee shall not be exclusive of any other to which Lessee may be entitled by law against the condemning authority. Where the portion taken renders the remainder unsuitable for the use or uses for which

the premises were leased, the Lessee shall have the option to surrender this lease and be discharged and relieved from any further liability; provided, that Lessee may remove the improvements constructed, erected and/or placed by it or on its behalf on the premises within any reasonable period allowed by the Lessor.

25. Inspection by prospective bidders. The Lessor shall have the right to authorize any person or persons to enter upon and inspect the premises at all reasonable times following a published notice for its proposed disposition of the premises after this Lease term for purposes of informing and apprising that person or persons of the condition of the premises preparatory to the proposed disposition; provided, however, that any entry and inspection shall be conducted during reasonable hours after written notice to enter is first given to the Lessee, and shall, if the Lessee so requires, be made in the company of the Lessee or designated agents of the Lessee; provided, further, that no authorization shall be given more than two years before the expiration of the term of this lease.

26. Acceptance of rent not a waiver. The acceptance of rent by the Lessor shall not be deemed a waiver of any breach by the Lessee of any term, covenant, or condition of this lease, nor of the Lessor's right of re-entry for breach of covenant, nor of the Lessor's right to declare and enforce a forfeiture for any breach, and the failure of the Lessor to insist upon strict performance of any term, covenant, or condition, or to exercise any option conferred, in any one or more instances, shall not be construed as a waiver or relinquishment of any term, covenant, condition, or option, unless provided otherwise in this lease or in writing by Lessor.

27. Extension of time. Notwithstanding any provision contained in this lease, when applicable, the Board may for good cause shown, allow additional time beyond the time or times specified in this lease for the Lessee to comply, observe, and perform any of the lease terms, conditions, and covenants.

28. Justification of sureties. Any bonds required by this lease shall be supported by the obligation of a corporate surety organized for the purpose of being a surety and qualified to do business in the State of Hawaii, or by not less than two personal sureties, corporate or individual, for which justifications shall be filed as provided in Section 78-20, Hawaii Revised Statutes; provided, however, the Lessee may

furnish a bond in like amount, conditioned as aforesaid, executed by it alone as obligor, if, in lieu of any surety or sureties, it shall also furnish and at all times thereafter keep and maintain on deposit with the Lessor security in certified checks, certificates of deposit (payable on demand or after a period the Lessor may stipulate), bonds, stocks or other negotiable securities properly endorsed, or execute and deliver to the Lessor a deed or deeds of trust of real property, all of a character which is satisfactory to Lessor and valued in the aggregate at not less than the principal amount of the bond. It is agreed that the value of any securities which may be accepted and at any time thereafter held by the Lessor shall be determined by the Lessor, and that the Lessee may, with the approval of the Lessor, exchange other securities or money for any of the deposited securities if in the judgment of the Lessor the substitute securities or money shall be at least equal in value to those withdrawn. It is further agreed that substitution of sureties or the substitution of a deposit of security for the obligation of a surety or sureties may be made by the Lessee, but only upon the written consent of the Lessor and that until this consent is granted, which shall be discretionary with the Lessor, no surety shall be released or relieved from any obligation.

29. Waiver, modification, reimposition of bond and liability insurance provisions. Upon substantial compliance by the Lessee with the terms, covenants, and conditions contained in this lease on its part to be observed or performed, the Lessor at its discretion may in writing, waive or suspend the performance bond or improvement bond requirements or both or may, in writing, modify the particular bond(s) or liability insurance requirements by reducing its amount; provided, however, that the Lessor reserves the right to reactivate the bonds or reimpose the bond(s) or liability insurance in and to their original tenor and form at any time throughout the term of this lease.

30. Quiet enjoyment. The Lessor covenants and agrees with the Lessee that upon payment of the rent at the times and in the manner provided and the observance and performance of these covenants, terms, and conditions on the part of the Lessee to be observed and performed, the Lessee shall and may have, hold, possess, and enjoy the premises for the term of the lease, without hindrance or interruption by the Lessor or any other person or persons lawfully claiming by, through, or under it.

31. Surrender. The Lessee shall, at the end of the term or other sooner termination of this lease, peaceably deliver unto the Lessor possession of the premises in a clean and orderly condition, and shall remove all improvements constructed or made by the Lessee in connection with this lease, including, without limitation, the Project Improvements, whether constructed or made by the Lessee during or prior to the term of this lease, in accordance with Section 10 of this lease by the Restoration Date. Furthermore, upon the expiration, termination, or revocation of this lease, should the Lessee fail to remove any and all of Lessee's personal property from the premises by the Restoration Date and the parties have not otherwise agreed to leaving such personal property for Lessor, after notice thereof, the Lessor may remove any and all personal property from the premises and either deem the property abandoned and dispose of the property or place the property in storage at the cost and expense of Lessee, and the Lessee does agree to pay all costs and expenses for disposal, removal, or storage of the personal property. The Lessor shall grant Lessee, upon reasonable terms and conditions as set forth by the Board, a twelve month right-of-entry following expiration or earlier termination of this lease to remove such improvements and personalty at the Lessee's sole cost and expense. The Lessee shall restore the premises to the condition as provided for in this lease. This provision shall survive the termination of this lease.

32. Non-warranty. The Lessor does not warrant the condition of the premises, as the same are being leased as is, where is.

33. Hazardous materials. Lessee shall not cause or permit the escape, disposal or release of any hazardous materials on the premises or any location off the premises to which it is determined any hazardous materials have migrated, by or as a result of the Lessee's action, except as permitted by law. Lessee shall not allow the storage or use of such materials on the premises in any manner not sanctioned by law or by the highest standards prevailing in the industry for the storage and use of such materials, nor allow to be brought onto the premises any such materials except to use in the ordinary course of Lessee's business, and then only after written notice is given to Lessor of the identity of such materials and upon Lessor's consent which consent may be withheld at Lessor's sole and absolute discretion. If allowed by law, Lessor hereby consents to the lawful use of lubricating oil and grease, paint

normally used in wind farm applications and cleaning compounds, subject to Lessee's use being within the legal and lawful regulations and standards. If any lender or governmental agency shall ever require testing to ascertain whether or not there has been any release of hazardous materials by Lessee on the premises, then the Lessee shall be responsible for the reasonable costs thereof. In addition, Lessee shall execute affidavits, representations and the like from time to time at Lessor's request concerning Lessee's best knowledge and belief regarding the presence of hazardous materials on the premises placed or released by Lessee.

Lessee agrees to release, indemnify, defend, and hold harmless Lessor from any damages and claims resulting from the release of hazardous materials on the premises if (a) such release occurs while Lessee is in possession, and is caused by any person other than the Lessor or persons acting under the Lessor and such release occurs on or at any portion of the premises that is under the control of the Lessee, or (b) elsewhere if such release is caused by the Lessee or persons acting under the Lessee. These covenants shall survive the expiration or earlier termination of this lease.

For the purpose of this lease "hazardous material" shall mean any pollutant, toxic substance, hazardous waste, hazardous material, hazardous substance, or oil as defined in or pursuant to the Resource Conservation and Recovery Act, as amended, the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, the Federal Clean Water Act, or any other federal, state, or local environmental law, regulation, ordinance, rule, or by-law, whether existing as of the date hereof, previously enforced, or subsequently enacted.

34. Fire and extended coverage insurance. The Lessee, at its cost and expense, shall procure and maintain at all times during the term of this Lease, fire and extended coverage insurance with an insurance company(s) licensed to do business in the State of Hawaii, insuring all buildings and improvements erected on the premises by the Lessee in the joint names of the Lessor and the Lessee, with the standard mortgage clause for any Lender, as their interests may appear, in an amount equal to the replacement cost of the facilities and shall pay the premiums at the time and place required under the policy(s).

In the event of total or partial loss, any proceeds

derived from the policy(s) shall be used by the Lessee for rebuilding, repairing, or otherwise reinstating the same facilities in a good and substantial manner according to plans and specifications approved in writing by the Chairperson; provided, however, with the approval of the Lessor that the Lessee may instead surrender this Lease and pay the balance owing on any mortgage. Upon surrender of the Lease, the Lessee shall then receive that portion of the insurance proceeds which the unexpired term of this Lease at the time of the loss or damage bears to the whole of the term, with the Lessor to be paid the balance of the proceeds. Upon such surrender, Lessee may remove any improvements placed by it or on its behalf on the premises within any reasonable period allowed by the Lessor.

The Lessee shall furnish the Lessor on or before the commencement date of this Lease, a copy of the policy or other documentation required by the Lessor showing the policy(s) or other documentation required by the Lessor to be in full force and effect and shall furnish a like copy of the policy or other documentation required by the Lessor upon each renewal of the policy(s). Each copy of the policy or other documentation required by the Lessor shall contain or be accompanied by an assurance from the insurer not to cancel the insurance, limit the scope of the coverage, or fail or refuse to renew the policy(s) until after thirty (30) days written notice has been given to the Lessor.

All rights or claims of subrogation against the State of Hawaii, its officers, employees, and agents are waived.

Notwithstanding the foregoing, the Lessee shall not be required to provide the insurance required in this Section until the start of construction of any improvements on the premises, or the installation of any equipment or other personal property on the premises, whichever occurs first.

35. [Intentionally omitted].

36. Further assurances. Lessor expressly agrees that it will from time to time enter into reasonable nondisturbance agreements with any Lender which requires such an agreement providing that Lessor shall recognize the rights of the Lender and not disturb its possession of the premises so long as it is not in default of any of the provisions of this Lease. Lessor and Lessee further agree that they shall, at any time during the term of this Lease within twenty (20) days after a written

request by the other party, provided that the documents accurately and truthfully reflect the matters contained therein, execute, acknowledge and deliver to the requesting party a statement in writing certifying that this Lease is unmodified and in full force and effect (or modified and stating the modifications). The statements shall also state the dates to which the payments and any other charges have been paid and that there are no known defaults existing or that defaults exist and the nature of such defaults. If applicable law requires Board approval for any such foregoing statement, Lessor shall obtain necessary Board approval in a prompt and timely manner.

37. Bond, improvement. Lessee shall ensure that its contractor shall, prior to commencing construction of Lessee's improvements on the premises, procure and deposit with the Lessor a copy of a surety bond (covering labor, materials, supplies and equipment), acceptable to the Chairperson, in an amount equal to the cost of construction of Lessee's improvements and equipment being placed on the premises, which bond shall name the Lessor and the Lessee as obligees, conditioned upon the faithful observance and performance of the contractor constructing the improvements and installing the equipment in accordance with its contract(s) for the premises, and conditioned upon those improvements and equipment and completion of such being free and clear of all liens, encumbrances and payment claims, and Lessee agrees that it shall indemnify, defend, and hold the Lessor harmless from all liens, suits, actions or damages arising out of, caused from or attributable to the work performed pursuant to the Lessee's construction of improvements or installation of equipment on the premises, except if the same is caused by the gross negligence or intentional acts of Lessor or any of its employees, contractors or agents.

38. Notices. All notices or other communications required or permitted hereunder, including notices to a Lender, shall, unless otherwise provided herein, be in writing, and shall be either (a) personally delivered with evidence of receipt by the receiving party, (b) delivered by reputable mail delivery company with proof of delivery, or (c) sent by registered or certified mail, return receipt requested, postage prepaid, and shall be addressed to the parties at the addresses set forth in this Section below. Notices shall be deemed given on the day so delivered, or upon the date of attempted delivery if the addressee rejects said notice or if failure of delivery is otherwise caused by the fault of the addressee. Notice of

change of address shall be given by written notice in the manner detailed in this Section, provided that Lessee's mailing address shall at all times be the same for both billing and notice. In the event there are multiple Lessees hereunder, notice to one Lessee shall be deemed notice to all Lessees. Below are the names and addresses of the Lessor, Lessee, and if known as of the date of this Lease, Lender:

If to the Lessor:	Board and Department of Land and Natural Resources 1151 Punchbowl Street, Room 220 Honolulu, Hawaii 96813 Attention: Chairperson
And a copy to:	Department of the Attorney General Attention: Land/Transportation Division Kekuanaoa Building 465 South King Street, Suite 300 Honolulu, Hawaii 96813
If to the Lessee:	Na Pua Makani Power Partners, LLC Attention: Mike Cutbirth 2020 Alameda Padre Serra, Suite 105 Santa Barbara, California 93103
And a copy to:	Yamamoto Caliboso Attn: Dean T. Yamamoto 1099 Alakea Street, Suite 2100 Honolulu, Hawaii 96813
If to the Lender:	_____ _____ _____ _____

39. Hawaii law. This lease shall be construed, interpreted, and governed by the laws of the State of Hawaii.

40. Exhibits - Incorporation in lease. All exhibits referred to herein are attached to this lease and hereby are deemed incorporated by reference.

41. Headings. The article, paragraph and section headings herein are inserted only for convenience and reference

and shall in no way define, describe or limit the scope or intent of any provision of this lease.

42. Partial invalidity. If any term, provision, covenant or condition of this lease, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this lease or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each remaining term and provision of this lease and the application to such remaining persons or circumstances shall be valid and enforceable to the fullest extent permitted by law.

43. Time is of the essence. Time is of the essence in all provisions of this lease.

44. Historic preservation. In the event any known or unknown (at the time of execution of this Lease) historic properties or burial sites, as defined in section 6E-2, Hawaii Revised Statutes, are found on the premises, the Lessee and the Lessee's agents, employees and representatives shall immediately stop all land utilization or work or both and contact the Historic Preservation Office in compliance with chapter 6E, Hawaii Revised Statutes.

45. Withdrawal Right. The Lessor shall have the right to withdraw a portion of the premises (the "Withdrawn Land"), as shown on the map attached hereto as Exhibit "C", from the premises and this Lease, at any time during the term of this Lease upon giving reasonable written notice to the Lessee, and without compensation, except as otherwise provided in this Lease, for the sole purpose of permitting the Withdrawn Land to be used by the State of Hawaii Division of Forestry and Wildlife for the mitigation of abutilon at no reduction of Lessee's rent. It shall be Lessor's responsibility, at its sole cost, to take all necessary actions, to effectuate such withdrawal of the Withdrawn Land, and to do so in accordance with all applicable federal, state and local laws, statutes, codes, ordinances, rules and regulations, and in a manner that does not materially or adversely affect the Lessee, Lessee's plans or operations, the Wind Project or the premises. The Lessee shall not construct any Project Improvements on the Withdrawn Land at any time. The Lessor will not require any additional rights, privileges or requirements (e.g., access rights over the premises) under this Lease or pertaining to the premises due to

the Withdrawn Land or the exercise of the Lessor's rights under this Section. The Lessee agrees to cooperate with the Lessor's reasonable requests for the Lessee's assistance in Lessor's efforts to effectuate the foregoing, including, without limitation, amending this Lease, provided that the Lessee shall not incur any additional costs or liabilities in connection with the same.

46. Clearances. The Lessee shall be responsible for obtaining all necessary federal, state or county clearances, permits and approvals in connection with this lease.

47. Hunting. No hunting shall be allowed on the premises during the term of this Lease.

48. Records. The Lessee shall prepare, maintain and keep records of Wind Data, as defined herein, and management practices conducted on the premises, including, but not limited to, the use of pesticides, for the term of this Lease or as required by law or any permit.

49. Audit and examination of books, etc. The Lessee shall, at all reasonable times, permit the Lessor or its authorized agents and employees, upon not less than twenty-one days' prior written notice given by the Lessor, to audit, examine and to make copies of all books, accounts, records and receipts of the Lessee for the purpose of verifying compliance with the rent provisions of this Lease, including, without limitation, records indicating the amount of electric production and delivery to the power purchaser and/or proceeds received by the Lessee from the power purchaser. If an audit shows an underpayment of more than three percent (3%) between the percentage rent payable for the audited period and the amount actually paid for percentage rent for the audited period, the Lessee shall immediately pay for the difference, plus the cost of the audit. If the audit shows that the percentage rent paid is more than the percentage rent which should have been paid for any period, Lessor shall immediately credit such excess amount against future rent payable by Lessee under this Lease, or refund said excess to Lessee if no further rent is payable under this lease.

50. Commercial operations. The Lessee, its employees, customers, guests, agents or invitees shall not display or offer for sale or sell any article(s) or merchandise whatsoever within the premises without the prior written

approval of the Lessor and upon such terms and conditions established by the Lessor. Except as otherwise provided in this lease, no commercial activities whatsoever shall be allowed within the premises without the prior written approval of the Lessor.

51. Abandoned vehicles. Lessee shall take all steps necessary to prevent the placing or storing of abandoned vehicles within the premises, and Lessor agrees to reasonably cooperate with Lessee in Lessee's fulfillment of the same (e.g., permit Lessee to place gates or fences or take other security measures on the premises). Any and all abandoned vehicles within the premises shall be removed by Lessee at Lessee's cost and expense.

52. Environmental regulations. Lessee shall comply with all applicable federal, state and county environmental impact regulations, including but not limited to chapter 343, Hawaii Revised Statutes, as amended, and regulations governing historic preservation.

53. Removal of trash. The Lessee shall be responsible for the removal of all trash upon the premises, whether or not placed on the premises by Lessee or with or without Lessee's consent, and whether or not placed on the premises prior to the term of this lease, provided that Lessor shall not place any trash upon the premises, in which case, removal of such trash shall be Lessor's responsibility.

54. Phase I environmental site assessment. Prior to termination or revocation of this lease or the assignment of the leasehold (excluding an assignment by Lessee solely for financing purposes), unless otherwise agreed to by Lessor in writing, Lessee shall conduct a Phase I environmental site assessment and conduct a complete abatement and disposal, if necessary, satisfactory to the standards required by the Federal Environmental Protection Agency, the Department of Health, and the Department of Land and Natural Resources. However, Lessee shall not be responsible for addressing, abating or disposing of any environmental conditions existing prior to the term of this lease as evidenced by the Phase I environmental site assessment paid for and conducted by Lessee prior to the term of this lease and reasonably accepted by Lessor prior to the Lease Commencement Date, a copy of which is attached hereto as Exhibit "D". Failure to comply with the provisions of this paragraph shall not extend the term of this lease or automatically prevent

termination or revocation of this lease. The Board, at its sole option, may refuse to approve termination, revocation, or assignment (excluding an assignment by Lessee solely for financing purposes) unless this evaluation and abatement provision has been performed. In addition or in the alternative, the Board may, at its sole option if Lessee does not do so, arrange for performance of the provisions of this paragraph, all costs and expenses of such performance to be charged to and paid by Lessee.

55. Survey and boundary stakeout. The Lessee shall be solely responsible for any survey and boundary stakeout of the premises which it desires to conduct.

56. Fair interpretation. The parties agree that the terms and provisions of this Lease embody their mutual intent and that such terms and conditions are not to be construed more liberally in favor, nor more strictly against, either party.

57. Counterparts. This Lease may be executed and recorded in counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument.

58. Complete agreement. This Lease, and the exhibits hereto, contain the entire agreement between the parties hereto with respect to the subject matter hereof and any prior agreements, discussions or understandings, written or oral, are superseded by this Lease and shall be of no force or effect. No addition or modification of any term or provision of this Lease shall be effective unless set forth in writing and signed by the authorized representatives of the parties and approved by the Board.

59. Renewable energy producer. The Lessee understands and agrees that this Lease is being issued by direct negotiation pursuant to Section 171-95, Hawaii Revised Statutes ("HRS"). Throughout the term of this Lease, the Lessee shall be and remain a "renewable energy producer" and the Lessee shall not assign or transfer this Lease to any entity that does not qualify as a "renewable energy producer." A violation or other breach of this provision shall be considered a material default under this Lease. However, the Lessee shall not be in breach of this provision in any of the following cases: (a) a grant of any right of entry to HECO as permitted in Section 3 of this Lease; (b) any case not deemed an assignment under Section 14 of this

Lease; (c) any transfer of interest for security or financing purposes which is contemplated under Sections 21 and 23 of this Lease; or (d) any other assignment or transfer as may be consented to by the Lessor in connection with this Lease and approved by the Board.

60. Lessee election of early termination of lease term. Provided the Lessee is in full compliance with all of the terms and conditions of this Lease, the Lessee shall have the right to terminate this Lease, at any time during the term of this Lease, if the power purchase agreement (the "PPA") between the Lessee and HECO expires or terminates or shall expire or terminate, for any reason, by providing Lessor with no less than one (1) year's prior written notice of such termination, provided, that from and after the expiration or termination date of the PPA, Lessee shall not be obligated to pay Percentage Rent under this Lease. The parties agree; however, that if the Lessee exercises its early termination right as provided in this paragraph, the Lessee may elect, in writing, to have the actual termination date of this Lease be a date earlier than the date one (1) year from the notice of termination, if the Lessee shall pay the Lessor a termination fee equal to the Minimum Annual Rent payable under this Lease for the period commencing on the date of the notice of termination and continuing for one (1) year thereafter (or, if the Minimum Annual Rent for such 1-year period is undetermined, then equal to the Minimum Annual Rent payable under this Lease for the one (1) year period immediately prior to the notice of termination), provided that the actual termination date of this Lease shall not be earlier than the expiration or termination date of the PPA.

In addition, provided the Lessee is in full compliance with all of the terms and conditions of this Lease, the Lessee shall have the right to terminate this Lease, if Lessee does not accept, for any reason, the Minimum Annual Rent and/or Percentage Rent amount(s) resulting from any reopening and redetermination thereof as provided for in Sections F and/or G above, by providing Lessor with no less than 90 days' prior written notice of such termination, which notice shall be provided to Lessor no more than sixty (60) days after Lessee's receipt of the final determination of the reopened and redetermined rent amount(s). The parties agree that in such case, for any period for which the reopened and redetermined rent amount(s) would have taken effect, Lessee shall pay Minimum Annual Rent and/or Percentage Rent through the termination date of the Lease based on the amounts/rates payable therefor

immediately prior to when the reopened and redetermined rent amounts were to take effect. The parties further agree that in such case of early termination of this Lease by Lessee, Lessee will reimburse Lessor for the costs incurred by Lessor for any appraisal conducted in determining such reopened and redetermined rent amounts.

Any election of early termination by the Lessee is subject to Sections 10 and 31 above.

61. Successors and Assigns. All of the covenants, agreements, terms and conditions contained in this Lease shall apply to, accrue to the benefit of and be binding upon Lessor and Lessee and their respective successors and permitted assigns.

62. Consent or Approval. Except as otherwise provided in this lease (e.g., certain consents to assign or sublease) or by law, whenever the consent or approval of a party shall be required under the terms of this Lease, the consent or approval of such party shall not be unreasonably or arbitrarily withheld, delayed or conditioned.

63. Memorandum of Lease. Lessee may or may not elect to record this lease; provided, however, that upon request by either party, a short form memorandum of this Lease shall be prepared by the requesting party, which memorandum will be in a form agreeable to both parties and shall be duly executed and acknowledged in proper form and may be placed on record so as to give public notice of the existence of this Lease.

64. Grammatical Changes. The use of any gender shall include all genders, and if there is more than one lessor or lessee, then all words used in the singular shall extend to and include the plural.

65. Additional Definitions. As used in this Lease, unless clearly repugnant to the context:

a) "Chairperson" means the Chairperson of the Board of Land and Natural Resources of the State of Hawaii or his successor(s).

b) "County" means the City and County of Honolulu.

c) "Holder of record of a security interest" means a

person who is the owner or possessor of a security interest in the land leased and who has filed with the Department of Land and Natural Resources and with the Bureau of Conveyances of the State of Hawaii a copy of this interest.

d) "Premises" means the land leased hereunder and all buildings and improvements (including roads within the premises) now or hereafter constructed or installed on the land leased; provided, however, that the definition of "premises" shall in no way modify or qualify the terms and provisions of Section 10 above. In the event of a conflict between the definition of "premises" in this subsection and terms and provisions of Section 10 above, Section 10 shall control. The intent of the parties in defining "premises" broadly in this subsection is to ensure that the indemnity and liability provisions of this Lease extend to both the land described in Exhibit "A" and all improvements now existing or hereafter constructed or installed on the land.

e) "Project Improvements" includes all equipment and improvements necessary or useful for the conversion of wind energy into electricity and the control and transmission of the same, as determined by the lessee, which may include, without limitation, the following: large wind turbine generators, steel towers, foundations and concrete pads, footings, guy wires, anchors, poles, crossarms, maintenance, security and/or ancillary office facilities, and other fixtures and facilities, staging areas for the assembly of equipment, required lines and cables (e.g., overhead and underground), and substation facilities to transfer power from the generators to power transmission lines, energy storage devices, supporting structures, transformers, switching and connection enclosures, interconnection and switching facilities, metering systems, control, communications and radio relay systems and equipment, auxiliary equipment and other power production equipment, meteorological towers and other wind and weather monitoring equipment, service buildings, access controls (gates, cattle guards and fences), security cameras, safety and wind project identification signage and roads that may be used in connection therewith located on the premises, and any improvements, fixtures, facilities, appliances, machinery and equipment related or associated to any of the foregoing.

f) "Renewable energy producer" means any producer of electrical energy produced by wind that sells all of the net power produced from the premises to an electric utility company

regulated under Chapter 269, HRS; provided that up to twenty-five per cent of the power produced by a renewable energy producer and sold to the utility may be derived from fossil fuels. Renewable energy producer shall also include such other instances included in the definition thereof in Section 171-95, HRS.

g) "Repowering" means: (i) the renewal or replacement of the majority (more than 80%) of the wind turbines as evidenced by, but not limited to, contemporaneous replacement of the wind turbines with different models, or (ii) a significant modification to the portion of the Wind Project located on the premises such that a significant revision to the existing land use permit or a new land use permit is required for the premises. The following shall not constitute Repowering: (1) reuse of the Project Improvements, including, without limitation, roads, erosion control and premises access improvements, meteorological towers or transmission interconnection related to the premises, (2) replacement of any Wind Project substation for any reason, (3) replacement of wind turbines on the premises with substantially the same make and model in the same locations, or (4) replacement of any or all of the wind turbines and Project Improvements on the premises as a result of casualty or loss.

h) "Waste" includes, but is not limited to, (i) permitting the premises, or any portion thereof, to become unduly eroded or failure to take proper precautions or make reasonable effort to prevent or correct the erosion; (ii) permitting a substantial increase in noxious weeds in uncultivated portions of the premises; and (iii) failure to employ all of the usable portions of the premises.

i) "Wind Data" means maps showing the locations and orientation of anemometer or other towers, including Universal Transverse Mercator coordinates and heights of towers, all wind survey data collected (data shall be formatted to include at a minimum monthly speed, direction and other useful reports generated by off-the-shelf commercial software provided by the manufacturer of the wind monitoring equipment) and any interpretations, reports or conclusions derived from this data.

j) "Wind Project" means an integrated wind energy generation system, consisting of one or more wind turbines and/or other Project Improvements that are constructed, installed and/or operated on the premises and/or on other lands

in the general vicinity of the premises by lessor or a third party authorized by lessor.

k) "Days" shall mean calendar days, unless otherwise specified.

l) "Noxious weed" means any plant species which is injurious, harmful, or deleterious or which may be likely to become so to the agricultural, horticultural, and livestock industries of the State, as determined by the Department of Agriculture of the State of Hawaii by administrative rules.

66. Special Conditions. Lessor and Lessee agree that this Lease is conditioned upon Lessee fulfilling all of the following conditions which remain unsatisfied as of the date of this Lease, each of which is deemed material for the effectiveness of this Lease:

a) If required for the construction of the Wind Project, Lessee shall obtain a Conditional Use Permit (CUP) from the City and County of Honolulu no later than (i) two (2) years after the date of this Lease, or (ii) March 31, 2018, whichever of (i) or (ii) shall first occur. In order to comply with this condition: (A) Lessor shall sign and deliver to Lessee, as landowner, the County Master CUP Application form attached hereto as Exhibit "E" and (B) Lessee shall execute and deliver the Indemnity Letter to Lessor attached hereto as Exhibit "F", both (A) and (B) to be completed no later than ten (10) days after the full execution of this Lease;

b) Lessee shall obtain Board approval of a Habitat Conservation Plan and secure an Incidental Take License from the Division of Forestry and Wildlife of the Department of Land and Natural Resources of the State of Hawaii for the Wind Project no later than (i) one (1) year after the date of this Lease, or (ii) March 31, 2017, whichever of (i) or (ii) shall first occur; and

c) Lessee shall provide evidence to Lessor of reasonable financial ability to construct the Wind Project on the Premises (e.g., balance sheets of an affiliate of Lessee or commitment (even if based on reasonable conditions, such as those provided in this Section, for financing) no later than (i) two (2) years after the date of this Lease, or (ii) March 31, 2018, whichever (i) or (ii) shall first occur.

Lessor agrees to present the Habitat Conservation Plan to the Board for approval at a public meeting within a reasonable time. For purposes of this provision, 30 days after the later to occur of (i) the Endangered Species Recovery Committee recommending approval, or (ii) the date of this Lease, or longer for good reason, shall be deemed reasonable.

If any of the conditions set forth in subparagraphs a), b) or c) of this Section above are not satisfied within the time allowed therefor, then Lessor and Lessee shall each have the right to immediately terminate this Lease by providing written notice of such termination to the other party, provided that Lessor agrees that it must provide such notice to Lessee before Lessee satisfies all of the applicable conditions set forth in such subparagraphs a), b) and c), regardless of whether satisfied within the time allowed therefor as stated in such conditions. If this Lease is properly terminated pursuant to this Section, then this Lease shall be deemed to be null and void ab initio. Notwithstanding the foregoing, the termination of the Lease shall not excuse Lessee from paying rent due to Lessor for the period after the end of the one-year rent waiver set forth above up to the termination date of the Lease.

[SIGNATURES IMMEDIATELY FOLLOW]

IN WITNESS WHEREOF, the STATE OF HAWAII, by its Board of Land and Natural Resources, has caused the seal of the Department of Land and Natural Resources to be hereunto affixed and the parties hereto have caused these presents to be executed the day, month and year first above written.

STATE OF HAWAII

Approved by the Board of Land and Natural Resources at its meeting held on _____.

By _____
_____, Chairperson
Board of Land and
Natural Resources

LESSOR

NA PUA MAKANI POWER PARTNERS, LLC, a Delaware limited liability company,

By _____
Name: _____
Title: _____

By _____
Name: _____
Title: _____

LESSEE

APPROVED AS TO FORM:

_____
Name: _____
Deputy Attorney General

Dated: _____

STATE OF _____)
) SS.
COUNTY OF _____)

On this _____ day of _____, 201___, before me personally appeared _____, to me personally known, who, being by me duly sworn or affirmed did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

_____
Notary Public, State of _____

Printed Name: _____

My commission expires: _____

NOTARY CERTIFICATION STATEMENT

Document Identification or Description:

_____

_____

_____

Doc. Date: _____ or ☐ Undated at time of notarization.

No. of Pages: _____

Jurisdiction: _____ Circuit
(in which notarial act is performed)

_____
Signature of Notary Date of Notarization and Certification Statement

_____
Printed Name of Notary

STATE OF _____)
) SS.
COUNTY OF _____)

On this _____ day of _____, 201___, before me personally appeared _____, to me personally known, who, being by me duly sworn or affirmed did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

_____
Notary Public, State of _____

Printed Name: _____

My commission expires: _____

NOTARY CERTIFICATION STATEMENT

Document Identification or Description:

_____

_____

_____

Doc. Date: _____ or ☐ Undated at time of notarization.

No. of Pages: _____

Jurisdiction: _____ Circuit
(in which notarial act is performed)

_____
Signature of Notary Date of Notarization and Certification Statement

_____
Printed Name of Notary

EXHIBIT "A"

LEASED PREMISES (FOR WIND FARM PURPOSES)

[TO BE ATTACHED]

EXHIBIT "A-1"

MAP DEPICTING LEASED PREMISES (FOR WIND FARM PURPOSES)

[TO BE ATTACHED]

EXHIBIT "B"

ASSIGNMENT OF LEASE EVALUATION POLICY

ASSIGNMENT OF LEASE EVALUATION POLICY

1. Enabling Statute.

   Act 104, effective May 24, 1989, amended Chapter 171-36(a)(5) to read in part:

   "... provided further that prior to the approval of any assignment of lease, the board shall have the right to review and approve the consideration to be paid by the assignee and may condition its consent to the assignment of the lease on payment by the lessee of a premium based on the amount by which the consideration for the assignment, whether by cash, credit, or otherwise, exceeds the depreciated cost of improvements and trade fixtures being transferred to the assignee;" (revision underlined)

2. Qualifying Leases.

   This policy shall be applicable to the subject lease.

3. Prior Approval.

   Prior to giving its consent to an assignment, DLNR must receive (i) the name, legal composition and address of any proposed assignee, (ii) a complete copy of the purchase agreement and the proposed assignment agreement, including the total consideration to be paid by the assignee for the assignment whether by cash, credit or otherwise, and (iii) the best available financial statement or balance sheet no older than 1 year prior to date of purchase agreement of the proposed assignee or any other such statement, audited or certified as correct by a financial officer of the proposed assignee.

   Assignments of lease shall not be entered into until the Attorney General has reviewed the proposed assignment and the Land Board have given their approval. Such assignments shall be entertained only if they meet the criteria set forth in Section 171-36(a)(5), HRS.

4. Qualifications of Assignee.

   If qualification was required of a lessee as a pre-condition of the lease, the prospective assignee must also be qualified to assume the lease.

EXHIBIT B

5. Consideration to be Paid.

Prior to review by the Attorney General and approval by the Land Board, the lessee (assignor) must present with written evidence of the consideration to be paid by the assignee and any other cost data that the state may require.

6. Payment of Premium.

The act permits the state to receive from the lessee (assignor) a premium based on the amount by which the consideration for the assignment, whether by cash, credit, or otherwise, exceeds the depreciated cost of improvements and trade fixtures being transferred to the assignee. The value of the inventory of merchandise and any other tangible assets in the sale of a business shall be deducted from the consideration paid. The appropriate cost index is then applied to determine the adjusted depreciated cost.

All lessees shall be required to furnish the state with the actual costs of construction of all improvements and renovations within 30 calendar days after its completion as well as the purchase costs of all trade fixtures acquired for the lessee's operation on the premises within 30 calendar days after their purchase. Lessees shall be required to furnish evidence of the actual costs by copy of the construction contract, receipts or otherwise. Lessees shall also be required to furnish an inventory of all personal property placed on the premises. Records of all costs incurred by the lessee for construction of improvements or renovations as well as trade fixtures submitted by the lessee shall be maintained in the lease file and shall include the Construction Cost Index for Apartments, Hotels, Office Buildings (CCI) and the Honolulu Consumer Price Index for All Urban Consumers (CPI) as published by the U.S. Department of Labor, Bureau of Labor Statistics for the year construction is completed.

The replacement cost for improvements or renovations is calculated by using the CCI for the evaluation year divided by the CCI for the year in which the improvements or renovations were completed (base year). The result is then multiplied by the original cost of the improvements or renovations. For trade fixtures, the cost is similarly calculated by using the CPI for the purchase year (base year) and the evaluation year.

Depreciation of improvements and trade fixtures will be determined on a straight line basis. Depreciation of improvements or renovations will be determined in the same

proportion that the expired term of the improvements or renovations bear to the whole term. The whole term will be from the date the construction of the improvements or renovations are completed until the termination date of the lease. Depreciation of trade fixtures will be determined in the same manner, except that the whole term will be the anticipated life of the trade fixture.

The premium will be a maximum of 50% of the excess. The percentage will decrease by 5% after every 5 years of the term has elapsed in accordance with Schedule C. The sliding scale will encourage long term occupancy and prevent speculation as well as recognize the investment, effort, and risk of the lessee.

In cases where the lessee is unable to furnish the Department of Land and Natural Resources with evidence of the actual cost of construction of improvements because the lessee has performed the work itself, the State may determine the cost or the lessee shall have the option of paying for an appraiser, to be selected by the Department of Land and Natural Resources, to determine what the improvements would have cost if the labor had been performed by a third party rather than the lessee. The lessee shall exercise its option by giving written notice to the lessor within thirty (30) calendar days after completion of construction of the improvements. If the lessee fails to exercise its option within this period, the lessor shall have the right to determine the cost of the improvements.

Schedule D attached provides a typical example of the evaluation calculations using Schedule A to calculate the replacement cost for improvements or renovations and depreciation, Schedule B to calculate the cost and depreciation for trade fixtures, and Schedule C to obtain the premium percentage.

7. Non-qualifying Deductions.

The statute only recognizes tangible items. Intangibles such as "goodwill", business name recognition, etc., are <u>not</u> deductible.

8. Subsequent Assignments.

If the consideration for any subsequent assignment includes the purchase of existing tenant owned improvements, the evaluation will be conducted in a similar manner as the first assignment. An example is shown on Schedule E.

Using Schedule E, the consideration the assignor paid less included inventory and any premiums will be used to obtain the adjusted depreciated cost of improvements and trade fixtures. Also, the Base Year is redefined to be the date the assignor received the Consent of the Board to occupy the premises. The holding period (redefined Base Year to assignment date), or actual occupancy of the assignor, is used in place of the "expired term" when calculating depreciation. Depreciation will be calculated by dividing the holding period by the whole term of the lease (The whole term will remain unchanged).

The change in the CCI will be reflected by comparing the CCI for the redefined base year to the most current CCI.

The holding period will be the basis for determining the appropriate premium percentage. Subtracting the included inventory and any premiums from the consideration the assignor paid will result in a reassessment of the market value of the improvements. If additional improvements were constructed by the assignor, they will be treated in the same manner as improvements constructed by an original lessee.

The excess of subtracting the adjusted depreciated consideration the assignor paid and the adjusted depreciated cost of additional improvements, if any, from the consideration the assignor received will be used against the appropriate premium percentage to determine the amount payable to the state.

9. Rights of Holders of Security Interest-Agricultural Leases only.

   In the event of foreclosure or sale, the premium, if any, shall be assessed only after the encumbrances of record and any other advances made by the holder of a security interest are paid.

10. When state-owned improvements are included in the leased premises, improvement renovation requirements shall be recognized as being tenant-owned improvements for evaluation in the policy.

    In other words, the total expenditure of the lessee to fulfill the requirement would be treated as though a new improvement was constructed.

SCHEDULE A. Adjusted Depreciated Cost of Improvements or Renovations

1. Adjusted Cost of Improvements or Renovations.

Multiply the actual cost of the improvements or renovations by the most recent U.S. Construction Cost Index for Apartments, Hotels, Office Buildings (CCI)* and divide the result by the CCI of the year construction was completed (base year) to get the adjusted cost of improvements or renovations.

2. Depreciation

Determine the depreciation percentage on a straight-line basis by dividing the expired term of the improvements or renovations by the whole term of the improvements or renovations, the whole term beginning on the date the improvements or renovations are completed to the expiration date of the lease. Multiply the adjusted cost of the improvements or renovations by the depreciation percentage to determine the depreciation.

3. Depreciated Cost of Improvements or Renovations

Subtract the depreciation from the adjusted cost of improvements or renovations. The balance is the depreciated cost of improvements or renovations.

*As published by the U.S. Department of Labor, Bureau of Labor Statistics

Example

Actual cost:	$500,000
CCI (most recent):	121.1
CCI (base year):	102.3
Expired term:	57 mos.
Whole term:	408 mos.

1. Adjusted Cost of Improvements or Renovations

$$\text{Actual Cost} \times \frac{\text{CCI (most recent)}}{\text{CCI (base year)}}$$

$$\$500{,}000 \times \frac{121.1}{102.3} = \$591{,}887$$

2. Depreciation

$$\$591{,}887 \times \frac{57 \text{ mos.}}{408 \text{ mos.}} = \$82{,}690$$

3. Adjusted Depreciated Cost of Improvements or Renovations

$591,887 - $82,690 = $509,197

SCHEDULE B. Adjusted Depreciated Cost of Trade Fixtures

1. Adjusted Cost of Trade Fixture.

Multiply the actual cost of the trade fixture by the most recent Honolulu Consumer Price Index for All Urban Consumers (CPI)* and divide the result by the CPI of the year in which the purchase was made (base year).

2. Depreciation.

Determine the depreciation percentage on a straight-line basis by dividing the expired term of the trade fixture by its anticipated life. Multiply the adjusted cost of the trade fixture by the depreciation percentage to determine the depreciation.

3. Depreciated Cost of Trade Fixtures.

Subtract the depreciation from the adjusted cost of the trade fixture. The balance is the depreciated cost of the trade fixture.

*As published by the U.S. Department of Labor, Bureau of labor Statistics

Example

	Refrigerator
Actual cost:	$1,510
CPI (most recent):	118.1
CPI (base year):	104.6
Expired term:	57 mos.
Whole term: (Anticipated life)	96 mos.

1. Adjusted Cost of Trade Fixture

$$\text{Actual Cost} \times \frac{\text{CPI (most recent)}}{\text{CPI (base year)}}$$

$$\$1,510 \times \frac{118.1}{104.6} + \$1,705$$

2. Depreciation

$$\$1.705 \times \frac{57 \text{ mos.}}{96 \text{ mos.}} = \$1,012$$

3. Adjusted Depreciated Cost of Trade Fixture

$1,705 - $1,012 = $ 693

SCHEDULE C. Premium Percentages

1. For the first 5 years, the premium is 50% of the amount by which the consideration for the assignment, whether by cash, credit, or otherwise, exceeds the depreciated cost of improvements and trade fixtures being transferred to the assignee. The percentage will decrease by 5% after every 5 years of the total term has elapsed.

Years	Percentage
1 - 5	50%
6 - 10	45%
11 - 15	40%
16 - 20	35%
21 - 25	30%
26 - 30	25%
31 - 35	20%
36 - 40	15%
41 - 45	10%
46 - 50	5%
51 -	0%

As an example, if a 55 year lease was assigned after 57 months, the premium percentage would be 50%. If the assignment occurs after 130 months (10+ years), the percentage would be 40%.

2. The Board of Land and Natural Resources may impose a ten percent (10%) surcharge if the assignor has not performed lease covenants to improve or use the property.

SCHEDULE D. Assignment of Lease Calculations

1. Subtract from the consideration for the assignment that amount, if any, that is attributable to inventory.

2. Calculate the Adjusted Depreciated Cost of Improvements or Renovations (see Schedule A).

3. Calculate the Adjusted Depreciated Cost of Trade Fixtures (see Schedule B).

4. Calculate the amount by which the consideration for the assignment, whether by cash, credit, or otherwise, exceeds the depreciated cost of improvements and trade fixtures being transferred to the assignee by subtracting the amounts derived by no. 2 and 3 from the amount in no. 1 above.

5. Determine the appropriate premium percentage (see Schedule C). Multiply by the excess, if any, derived by no. 4.

Example

A lease is being assigned 57 months after completion of the improvements at a consideration of $600,000.

The initial cost of the improvements was $500,000 while the current year CCI and base year CCI were 121.1 and 102.3, respectively. The whole term for the improvements is 408 months.

For the trade fixtures, the initial cost was $1,510 with the current year CPI and base year CPI being 118.1 and 104.6, respectively. The total life expectancy is 96 months.

1.	Net Consideration:		$600,000
2.	Adj Cost Imp/Ren:	$591,887	
	Depreciation:	- 82,690	
	Adj Dep Cost Imp/Ren:		-509,197
3.	Adj Cost Trade Fixtures:	1,705	
	Depreciation:	- 1,012	
	Adj Dep Cost Trade Fixtures:		- 693
4.	Excess:		$ 90,110
5.	Premium: Percentage:	50%	$ 45,055

SCHEDULE E. Subsequent Assignment of Lease Calculations

1. Subtract from the consideration the assignor received for the assignment that amount, if any, that is attributable to inventory to derive the net consideration received.

2. Subtract from the consideration the assignor previously paid for the assignment that amount, if any, that was attributable to inventory. Also, subtract from the consideration the assignor previously paid for the assignment that amount, if any, that was attributable to premiums. The net consideration paid is now defined to be the value of improvements as of the date of the occupancy by the assignor.

3. Using the result from no. 2, calculate the Adjusted Depreciated Value of Improvements or Renovations (see Schedule A).

4. Subtract the amount derived by no. 3 from the amount in no. 1 to determine the amount by which the consideration received for the assignment, whether by cash, credit, or otherwise, exceeds the adjusted depreciated value of improvements being transferred to the assignee.

5. Determine the appropriate premium percentage (see Schedule C). Multiply by the excess, if any, derived by no. 4.

Example

An assignor is assigning a lease 107 months after receiving the consent of the Board. Occupancy or the holding period is defined to be 107 months. The consideration received is $1,000,000.

The consideration paid by the assignor was $600,000 while the current year CCI and redefined base year CCI were 156.4 and 121.1, respectively. The whole term was 408 months.

No inventory was included in either consideration. However, a premium of $45,055 was paid to the state by the previous occupant from the $600,000 consideration.

1.	Net Consideration Received:			$1,000,000
2.	Consideration Paid:	$600,000		
	Premium:	- 45,055		
	Net Consideration Paid:		$554,945	
3.	Adj Value Consideration (improvements):			
	$554,945 X 156.4 / 121.1	=	$716,708	
	Depreciation:			
	$716,708 X 107 mos. / 408 mos.	=	-187,960	
	Adj Dep Value Consideration:			- 528,748
4.	Excess:			$ 471,252
5.	Premium: Percentage:		45%	$ 212,063

EXHIBIT "C"

WITHDRAWN LAND AREA

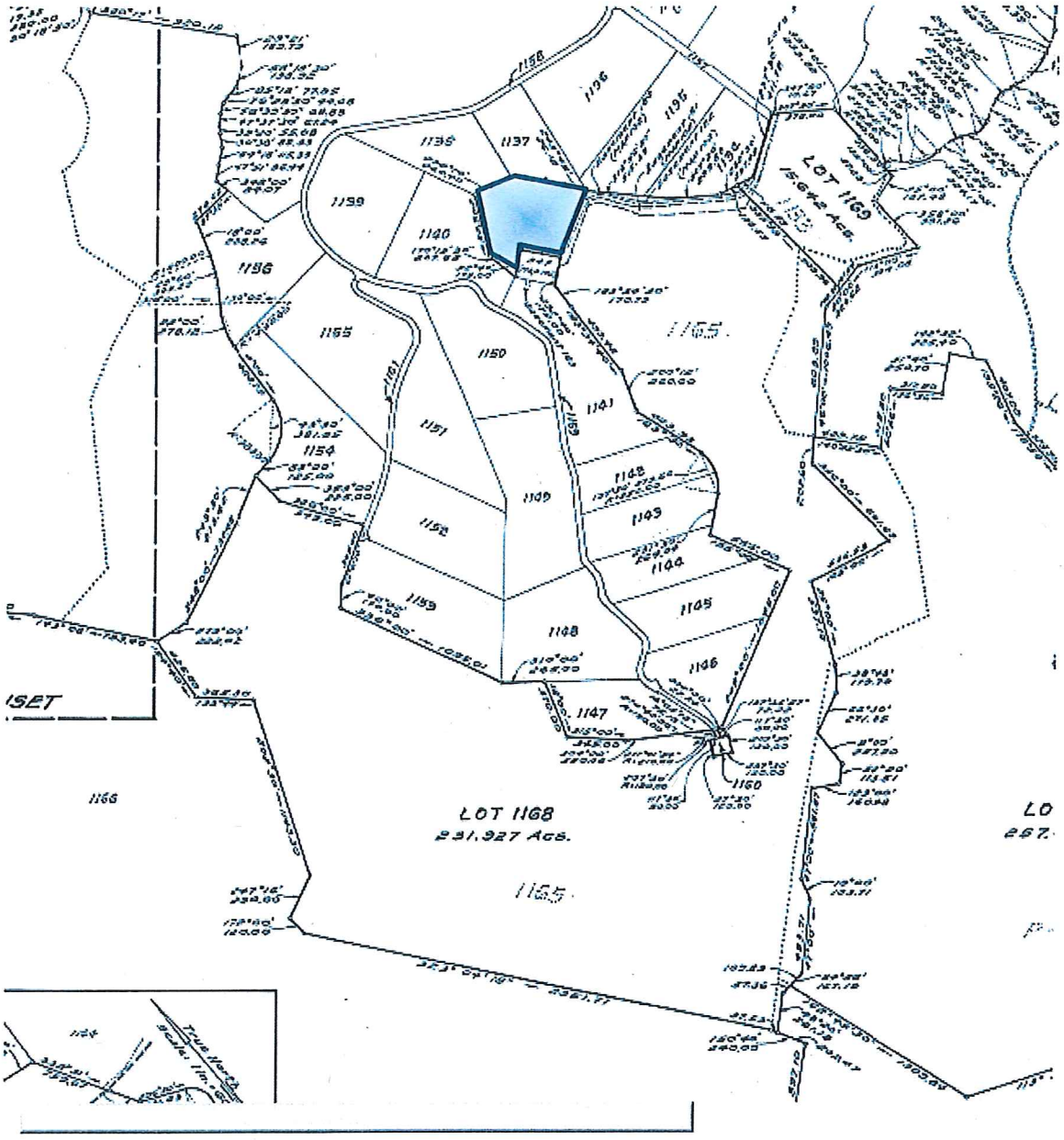

LOT 1169
15.642 Acs.
LOT 1168
231.927 Acs.
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EXHIBIT "D"

PHASE I ENVIRONMENTAL SITE ASSESSMENT

[TO BE ATTACHED]

EXHIBIT "E"

CUP APPLICATION

CITY AND COUNTY OF HONOLULU
DEPARTMENT OF PLANNING & PERMITTING
650 South King Street, 7th Floor
Honolulu, Hawaii 96813

LAND USE PERMITS DIVISION MASTER APPLICATION FORM

Additional data, drawings/plans, and fee requirements are listed on a separate sheet titled "Instructions for Filing." ***PLEASE ASK FOR THESE INSTRUCTIONS.***

All specified materials described in the "Instructions for Filing" and required fees must accompany this form; incomplete applications will delay processing. You are encouraged to consult with Zoning Division staff in completing the application. Please call the appropriate phone number given in the "Instructions for Filing."

Please print legibly or type the required information.

SUBMITTED FEE: $600.00

PERMIT/APPROVAL REQUESTED (Check one or more as appropriate):

Cluster:
- ☐ Agricultural
- ☐ Country
- ☐ Housing

Conditional Use Permit:
- ☒ Minor ☐ Major
- ☐ Existing Use: _____ (Indicate Type of Use)

Environmental Document:
- ☐ Environmental Impact Statement
- ☐ Environmental Assessment
- ☐ Supplemental
- ☐ Minor Shoreline Structure

- ☐ Modify Approved Permit: _____ (Indicate Reference File No.)
- ☐ Plan Review Use

Planned Development:
- ☐ Housing
- ☐ Commercial (WSD Only)
- ☐ Resort (WSD Only)
- ☐ Interim Transit (IPD-T)

- ☐ Shoreline Setback Variance

Special District Permit:
- ☐ Minor ☐ Major
- _____ (Indicate District)
- ☐ Downtown Height >350 Feet

Special Management Area Use Permit:
- ☐ Minor ☐ Major
- ☐ Temporary Use Approval
- ☐ Variance from LUO Section(s): _____
- ☐ Waiver from LUO Section(s): _____
- ☐ Zoning Adjustment, LUO Section(s): _____
- ☐ HRS Section 201H-38 Project

TAX MAP KEY(S): (1) 5-6-008:006
LOT AREA: 234 acres
ZONING DISTRICT(S): AG-1; AG-2 **STATE LAND USE DISTRICT:** Agricultural
STREET ADDRESS/LOCATION OF PROPERTY:
Parcel 006; 56-668 Kamehameha Highway

RECORDED FEE OWNER:
Name (& title, if any) Suzanne Case, Chairperson BLNR
Mailing Address 1151 Punchbowl Street
Honolulu, Hawaii 96813
Phone Number 808-587-0422
Signature _____

PRESENT USE(S) OF PROPERTY/BUILDING:
Fallow lands

PROJECT NAME (If any): Na Pua Makani Wind Project - Subproject A

APPLICANT:
Name Mike Cutbirth, Na Pua Makani Power Pa
Mailing Address P.O. Box 540
Santa Barbara, California 93102
Phone Number _____
Signature _____

AUTHORIZED AGENT/CONTACT PERSON:
Name Neal Dixon, Tetra Tech, Inc.
Mailing Address 737 Bishop Street, Suite 2340
Honolulu, Hawaii 96813
Phone Number _____
Signature _____

REQUEST/PROPOSAL (Briefly describe the nature of the request, proposed activity or project): Na Pua Makani Power Partners proposes to ~~to construct and operate the Na Pua Makani Wind Project, a wind farm with a nameplate generating capacity of up to approximately 25 MW, located near the town of Kahuku, Oahu, Hawaii. The wind farm would include up to 9 wind turbine generators, access roads, assembly lay-down areas, overhead and underground transmission and collector lines, an operations and maintenance building, and an electrical substation. The substation will be owned and operated in part by the applicant and in part by Hawaiian Electric Company. This CUPm application covers the portions of the project on TMK (1) 5-6-008: 006, designated as Project A, and includes in its scope 5 turbines, lay-down areas, access roads, and underground collector lines.~~

POSSE JOB NO. _____

REV. 2/17/2015

EXHIBIT E

EXHIBIT "F"

INDEMNITY LETTER

NA PUA MAKANI POWER PARTNERS, LLC
PO Box 540
Santa Barbara, CA 93012

September ___, 2016

Ms. Suzanne Case, Chairperson
Department of Land and Natural Resources
P.O. Box 621
Honolulu, Hawaii 96809

Re: General Lease No. *[No.}, Na Pua Makani Power Partners, LLC*, Lessee
CUP Minor – Na Pua Makani Wind Energy Project

Dear Ms. Case:

The General Lease referenced above requires the Lessee to obtain a CUP from the City and County of Honolulu as a special condition of the lease. The enclosed City and County of Honolulu Master Application form for Conditional Use Permit ("CUP") Application requires the State of Hawaii to sign as the landowner as a condition of the County processing the request for a CUP(m). Please sign in the appropriate space in the application as the landowner.

I/We agree to assume and be responsible and liable for all of the duties and obligations of the landowner under the application and shall indemnify, hold harmless, and defend the State of Hawaii from and against all claims, injuries and damages arising out of those duties and obligations. I/We understand and agree that by signing that application as requested, the State of Hawaii does not waive or release any of its rights and privileges, and expressly reserves all such rights and privileges under the General Lease referenced above.

Sincerely,

NA PUA MAKANI POWER PARTNERS, LLC

By: _____
Michael Cutbirth, Manager

EXHIBIT F

STATE OF HAWAII

DEPARTMENT OF LAND AND NATURAL RESOURCES

LAND DIVISION

COPY

TRANSCRIPT OF PROCEEDINGS

Of a public meeting for proposed lease of State Lands at Department of Land and Natural Resources, Kalanimoku Building, 1151 Punchbowl Street, Room 132, Honolulu, Hawaii on Wednesday, August 24, 2016 commencing at 6:03 p.m.

Reported by:
Priscilla Gonzaga, CSR #127
State of Hawaii

EXHIBIT 3

APPEARANCES:

Land Division Staff:

KEVIN MOORE
IAN HIROKAWA
MALAMA MINN

Applicant:

MIKE CUTBIRTH

KEVIN MOORE: Okay. Aloha and welcome everyone to the first of two public hearings on the proposed Na Pua Makani, a ~~green~~ wind project at Kahuku, Oahu.

My name is Kevin Moore and I'm from the Department of Land and Natural Resources Land Division. And also present tonight from Land Division are Ian Hirokawa and Malama Minn.

The time is 6:03 p.m. on Wednesday, August 24, 2016.

Since it's after hours, the building is closed. But we have two restrooms open. The women's room is right outside the door here. And the men's room is on the first floor of the mauka side of the building.

The purpose of this meeting is to take public testimony on the proposed ~~green~~ wind project. The outline of the project is available at the end of the table. If you haven't already done so, you're welcome to take a copy.

Malama and Ian have a PowerPoint presentation on the project. We'll start in just a moment. After that, we'll take public testimony.

Please note that the Land Division staff present tonight are not the decision makers on the

order to lease public lands to Na Pua Makani Power Partners, LLC for the project. Rather, that decision will be made by the Board Members of Natural Resources in a future public meeting.

To help us accurately record the testimony here tonight, we have a court reporter present. When you come up to testify, please state your name clearly.

And we had initially asked people to keep their testimony three minutes but we may not have that many folks here tonight so we'll see how that goes.

We're also accepting written testimony and you're welcome to submit it today in person or by e-mail by the end of the month. Thank you.

IAN HIROKAWA: Good evening. My name is Ian Hirokawa. I'm with DLNR Land Division. And we'll just go through a quick PowerPoint presentation providing some basic information about the project. And from there, we're free to begin taking testimony.

MALAMA MINN: And just to let you know, all the information that's on the PowerPoint is also in here.

IAN HIROKAWA: So the lease is being issued pursuant to Sections 171-6, 95 and 95.3, Hawaii

Revised Statutes. That basically deals with allowing the Board to directly negotiate or issue a direct lease to a renewable power project.

The land use district is agricultural for the State. City and County LUO is Agricultural 1 and 2.

It's non-ceded as the government land was acquired after statehood from the Campbell Estate, I believe, by condemnation.

The land is currently vacant and unencumbered with the exception of a right of entry issued to the DLNR's Division of Forestry and Wildlife for a five-acre portion for the mitigation and recovery of Abutilon menziesii. I'm not too sure how that -- we used to call it --

MALAMA MINN: You got it. You got it.

IAN HIROKAWA: As -- so just to see, the purple shaded area in the -- near the top of the North Shore area there is where the project is located. Here's a close-up. The project is actually located on both private and public land. The -- what you see on the left, the turbines are -- is a State parcel. And it's kind of a U -- kind of a U shaped parcel. On the top right edge of the parcel is where the Abutilon area will be just for reference.

And this is just tax map key -- tax map of the parcel. The parcel is 5-6-8-6, the TMK number. And the area is approximately 231.927 acres.

The parcel's previously set aside to the Department of Agriculture for agricultural park purposes. But in order to, you know, consummate this lease, it was withdrawn from that agricultural park by executive order dated March 23rd, 2015. Again, aside from that right of entry, the parcel is currently vacant.

The primary purpose for the lease is the proposed construction of the Na Pua Makani Wind Farm Project. And this is going by the applicant's final environmental impact statement. The purpose is to provide clean renewable wind energy to the island of Oahu and to assist Hawaiian Electric Company in meeting Hawaii's renewable energy -- renewable portfolio standard requirements and the State's goal of reducing energy costs.

Hawaii's Clean Energy Initiative sets goals for the State to achieve 100 percent clean energy by the year 2045 coming from locally generated renewable sources.

The project plans to begin operation in 2017. The power generated would be sold to Hawaiian

Electric via a power purchase agreement under a long term fixed price contract with fixed annual escalation providing long-term price stability.

The project would contribute to the State's diversified portfolio of renewable energy projects and provide an environmental and economic benefits to the state, county and local communities, diversification of Oahu's power supply and reduce the State's dependence on imported foreign oil and promote security.

Just some informational links for further details. The final environmental impact statement is posted both on the environmental -- excuse me, Office of Environmental Quality Control's Environmental Notice website. The link is -- are you -- I don't know if people unfamiliar. The link is provided up there but you can Google OEQC and go from there if you Google.

We also have a link to the FEIS document on our website at a link provided there. And again, if you go to DLNR Land Division, it's under the announcements.

Just to reiterate what was said earlier, you know, the applicant is also present and can be open for questions. But we do ask that, you know, the --

you sort of -- short questions. We don't necessarily -- this is more for the public to provide testimony and not necessarily a back and forth discussion with the applicant.

And again, please keep your testimony three minutes. But again, we don't have too many people here so as long as really everybody has a chance to testify, it's fine so. And again, there aren't too many people here so whoever wants to come up, start the testimony.

MAXX PHILLIPS: Aloha mai kakou. Maxx Phillips with the Office of Senator Gil Riveire. Aloha, nice to meet you finally.

Senator had me coming today to give his testimony in opposition of the leasing of this land for this project.

Whereas Senator is committed to reaching our renewal energy portfolio, he's concerned that this community group has already met that burden in spades.

Additionally, he's concerned that the change in height of the windmills from what they originally proposed to what the FEIS now that it's been approved is substantially larger and nothing that Hawaii has ever seen before. And he figures that that might end

up having more negative impacts, especially to our native birds and bats that are out there.

Additionally, there's huge concerns that he had that were voiced at the last DLNR meeting to approve the FEIS. And that was that the traffic study hasn't been thoroughly conducted. That there's been no analysis of the larger wind blades going through Waimea Bay which as we've seen from the past that has resulted in, with smaller blades, huge impacts to both traffic and actually to the rock fall mitigation project that still hasn't gotten through at that part of the road.

Additionally, Senator is concerned that the public doesn't understand the substantial change that has happened and that this process has been too quickly for them to come, especially because we're out on the North Shore. Most folks would not be able to make these meeting times and the last one for DLNR. So he'd like to mahalo you folks for your time and hopefully he'll be able to make it to the next one on Saturday.

MALAMA MINN: Thank you.

IAN HIROKAWA: Thank you.

MALAMA MINN: You'd like to testify?

IAN HIROKAWA: Anybody else?

SCOTT BRADSHAW: Good evening. My name is Scott Bradshaw. I am employed by Na Pua Makani. I was hired several years ago to provide community outreach.

I was raised in Laie. My family still owns a home there but I currently live in Ewa Beach. And the reason why I live in Ewa Beach is because there's no housing available on that side of the island. And if we wanted to stay here, the only housing I could find was in Ewa Beach.

I became interested in this project because of the economic situation of the State of Hawaii, particularly here on the island of Oahu. And I firmly believe that this project will improve the overall economic situation in the long run in conjunction with the State's goals of a hundred percent renewable energy.

In particular, this project, I've -- of course, I'm privy to a lot of information which I have willingly shared to anybody in the community who is willing to listen. I have met with literally over a hundred individuals on a individual basis, groups of one, two, three. I think I did a couple groups of 20 or 30 at the Marriott Hotel there. They gathered all their employees together and I gave them a

presentation. We've had several public meetings where the public was invited. We used the community center in Kahuku which is at the heart of this project.

And at all the meetings that I've been to the last few years, there have been more supporters of the project than opponents. We have an overwhelming number of support letters for this project. Though the opposition is pretty vocal, statistics will show that there is an overwhelming support for this project based on the number of letters of support we received as well as those who attend the community meetings that we have out there.

My goal, ever since I was employed, was to again provide up to date and accurate information to anybody who's willing to listen. And I feel that because of that, the community has been well informed with regards to the project. And I am in support of, of course, the lease being signed by the State so that this project can go forward. Thank you.

KEVIN MOORE: Well, I think that's it for the presentation. We will keep the microphone open for a while to see if any stragglers come in. So you're welcome to stay in the room. Up to you.

(Adjourned at 6:35 p.m.)

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

CERTIFICATE

I, PRISCILLA GONZAGA, CSR #127, a Freelance Court Reporter for the State of Hawaii, do hereby certify that the foregoing pages 1 to 11, inclusive, comprise a true transcript of the proceedings of August 24, 2016 in the above-entitled matter.

DATED: This 24 day of August 2016.

Priscilla Gonzaga CSR #127
State of Hawaii

STATE OF HAWAII

DEPARTMENT OF LAND AND NATURAL RESOURCES

LAND DIVISION

TRANSCRIPT OF PROCEEDINGS

Of a public meeting for proposed lease of State Lands at Department of Land and Natural Resources, Kalanimoku Building, 1151 Punchbowl Street, Room 132, Honolulu, Hawaii on Saturday, August 27, 2016 commencing at 1:03 p.m.

Reported by:
Laura Savo, CSR #347
State of Hawaii

APPEARANCES:

LAND DIVISION STAFF:

Kevin Moore
Ian Hirokawa
Malama Minn

APPLICANT:

Scott Bradshaw
Jolene Bradshaw

PUBLIC TESTIMONY BY:

Kent Fonoimoana

Elizabeth Rago-Ka'ili

HONOLULU, HAWAII AUGUST 27, 2016, 1:00 P.M.

-- o0o --

MR. MOORE: Okay. Aloha and welcome, everyone, to the second of two public hearings on the proposed Na Pua Makani Wind Project at Kahuku, Oahu. My name is Kevin Moore and I'm with the Department of Land and Natural Resources, Land Division. Also with me is Ian Hirokawa from Department of Land and Natural Resources and Malama Minn.

The time is 1:03 p.m. on Saturday, August 27, 2016. Since it's a weekend, the building is locked up, but we do have two restrooms open. The women's room is right outside the door here, and the men's room is at the mauka end of the building on the first floor.

The purpose of this meeting is to take public testimony on the proposed wind project. An outline of the project is available on the table here if you haven't already taken a copy. Malama and Ian have a PowerPoint presentation that they will start in just a moment. After that, they'll take public testimony. But please note that the Land Division staff present today are not the decision-makers on whether to lease public lands to Na Pua Makani Power Partners, LLC, for the project. Rather, that

decision will be made by the Board of Land and Natural Resources at a future public meeting.

To help us accurately record the testimony given today, we have a court reporter present. When you come up to testify, please state your name clearly. We are also accepting written testimony, and you're welcome to submit it to me in person or by email or mail before -- by August 31, 2016. Thank you.

MR. HIROKAWA: Hi, my name is Ian Hirokawa. I'm with the Department of Land and Natural Resources, Land Division. Thank you all for coming today. I'd like to go through a brief PowerPoint presentation about the project, and then we'll open it up for public testimony.

The proposed lease is issued pursuant to sections 171-6, -95 and -95.3 Hawaii Revised Statutes. The land use presently for state is agricultural, county agricultural 1 and 2, is non-ceded government land acquired after statehood from the Campbell Estate via condemnation, currently vacant and unencumbered with the exception of a right-of-entry permit issued to DLNR, Division of Forestry and Wildlife, for a five-acre area for the mitigation and recovery of Albutilon menziesii.

If you look at the map on the North Shore of Oahu, the top area there, the purple outline is the project location.

Here's a more specific close-up here. The state -- where the five turbines are on the left side, that is the state parcel. The other four turbines are located on private property, and this is a tax map key showing the area as well. That tax map. Sorry. Excuse me.

The TMK number is (1)5-6-86. The area's approximately 231.927 acres. It was previously set aside to the Department of Agriculture as part of the Kahuku Agricultural Park, but in order to pursue the lease for this project, the parcel was withdrawn on March of last year by Executive Order 4482. So aside from the Albutilon recovery, the parcel is currently vacant.

The primary purpose of the lease is the proposed construction of a wind farm project, and as stated in the applicant's final environmental impact statement, the purpose of the project is to provide clean, renewable wind energy for Oahu and to assist HECO in meeting -- or excuse me -- Hawaiian Electric Company in meeting Hawaii's renewable portfolio standard requirements and, ultimately, the state's

goal of reducing energy costs.

The Hawaii's Clean Energy Initiative sets goals for the state to achieve 100 percent renewable energy by the year 2045 coming from locally generated, renewable sources.

The plan -- excuse me. The project plans to begin operation in 2017. The power generated by the wind farm will be sold to HECO via a power purchase agreement, which is a long-term, fixed-price contract with annual -- fixed annual escalation providing -- with the goal of providing long-term price stability.

The project will also contribute to the state's diversified portfolio of renewable energy projects, economic and environmental benefits to the state, county and local communities, diversification of Oahu's power supply, and contribute to the state's energy independence and security by reducing the need for foreign oil.

The final environmental impact statement is provided in hard copy here if you need to reference it. Also available online at both the Office of Environmental Quality Control's website is the environmental notice. The date is July 23rd, 2016, for that publication and the link is provided

there. We also have it on our own website, the DLNR's Land Division, and the link is provided for you.

There's not a lot of people, but if there is a crowd -- if we get more people coming, we do ask that testimony be limited to three minutes, so everybody can be heard within the meeting time.

You know, we can ask -- we're able to answer limited questions, and I believe the applicant has a representative here, but, you know, we ask that it be limited because we're taking public testimony. We're not here to get into a back and forth discussion about the project, necessarily. So you're free to testify however you'd like, but like I said, questions are kind of limited in scope, please.

One final thing. The FEIS that's provided in hard copy does not include the exhibits because it was so large that we just printed out and received hard copies of that. So it is just the main body of the impact statement.

At that point, this wraps up the PowerPoint. So anyone who'd like to testify, please feel free to come up, identify yourself and begin.

Sir?

MR. FONOIMOANA: I'm waiting to go last.

MS. MINN: Well, you might be first and last.

MR. HIROKAWA: Anyone else want to testify?

MR. FONOIMOANA: I'd like a guaranteed position of last. Since we've got an hour and a half, I don't mind sitting around waiting to know for sure that no one else is going to say anything and step on my comments since there is a representative of the applicant in the room.

MR. HIROKAWA: We're going to stay until 2:30 regardless if anybody else shows up.

MR. FONOIMOANA: I'll wait till 2:15.

(Pause in the proceedings from 1:08 p.m. until 1:10 p.m.)

MR. FONOIMOANA: I was just wondering as far as our time concerns, I know you said three minutes, but I think that three minutes is quite a limitation.

MS. MINN: That's not a strict limitation. We were worried if lots of people came and everybody wanted to speak, we didn't want one person commandeering, but that's not a problem today. So if you want to speak for an hour, you can go ahead and speak for an hour.

MR. FONOIMOANA: I will be frank here. If I go and these guys go, then I'm going to reserve the right to go again to rebut. I'm going to respect what you said. I'm not trying to get into a debate, but on the other hand --

MS. BRADSHAW: Then why do you need to rebut?

MR. FONOIMOANA: -- I think our Kahuku Community Association, our members, and the people that are being impacted by this project have every right to rebut whatever claim the applicant is making because we've been dealing with these guys since 2009, and the first guy that came in --

I'm sure that's why I was hoping Kekoa Kaluhiwa was going to be here because he knows what I'm talking about.

Well, we have another person here that may want to have something to say.

MR. HIROKAWA: I think in terms of trying to, hopefully, address your -- it's more of a procedural issue. The hearing is going to be until 2:30, and our aim is just to give everybody a chance to speak. So as long as everybody who is here that wants to speak is afforded an opportunity, that's why we ask.

MR. FONOIMOANA: Well, then barring -- and, again, remember, that if the applicant should go again, I'm going to reserve the right to rebut.

I will go first, first and last.

My name is Kent Fonoimoana. I am the president of Kahuku Community Association. I'm also the Kahuku's representative to the Ko'olauloa Neighborhood Board. I'm also cochair of Makani Pono'o Kahuku, a group that is currently represented by legal means. Having no other recourse, we had to go that route. So I'm not making -- I'm not saying anything other than we do have legal representation. They're just not in the room at this point.

Since 2009, we have been in discussions, I guess, with the previous applicant. I would call him a prospector, Keith Avery, with Oahu Wind Powerpartners. He promised the Kahuku community that if we did not want these wind turbines, that he would not install them. He was also telling folks that they would be behind the trees and behind the mountains and nobody would see them. The amount of lies that's been told to our community are just -- I mean, it's hard for me to sit here with a straight face and with the applicant in the room to tell you how many lies they've been telling.

They're saying that they're going to be further away from our community than the current project when, in reality, they're three times as close to our community as the ones that are there now. There have been issues with the ones that --

The ones that are there now are over three quarters of a mile away from our community, but I can tell you right now, I live over a mile away and I can hear them periodically. We've had two families move out of the community because of the impacts caused by these wind turbines.

Now, we're not against renewable energy. That's not the issue here. As a matter of fact, as a former -- I've been on the board since 2009. I was one of the people who voted to support First Wind coming in, the company that Kekoa Kaluhiwa used to work for. So I know Wren -- Malokohipi (phonetic), Wren Westcoatt, all these other guys that came into our community and we supported them to come in. But now after having the current project there and knowing the impacts that it's having on our community, not just the real impacts of noise and killing our mammals and killing whatever kind of critters are flying around up there, but it's the prospect of being completely surrounded by these

things is really overwhelming for this community.

Now, the federal environmental -- the federal FEIS or the draft EIS mentions something about socioeconomic impacts on this particular community due to our cultural sensitivities, and the state doesn't seem to be concerned about that. We cannot change what the community is, but I'm telling you that this community is not Hawaii Kai. The No. 2 place on this island to put wind turbines as far as feasibility is where? You guys should know. DLNR, you guys should have all your studies in front of you. It's Hawaii Kai. Now, you think they're going to erect those things around Koko Head? I kind of doubt it. First off, the legal challenges would be insurmountable for the state.

You guys are in conflict, DLNR. You guys own that piece of property up there, the state does. You think I'm going to sit here and talk on the state to issue a fair and proper decision for the people of Kahuku when you guys are the ones who stand to benefit from having the wind turbines on your property? I find that to be a conflict of interest, and I feel you folks should probably recuse yourself from making any decisions that will impact the Kahuku community. Until any one of you has lived under

those things for as long as we have, you have no real right to have an opinion. We do. And then we're like the canary in the minefield. I mean, well, minefield or in a mine. It's not a pleasant experience 24/7, 365.

There are proper, better ways to put these things. What I would like from the DLNR, from the decision-makers, be it Kekoa, Director Case or whoever else has anything to do with making this decision about putting these things on top of our community, that you come out to our community and sit down with us and hear from the people that's being impacted.

If you read Larry Nihipali's testimony, when he drives home every day, he feels depressed because he has to look at these things. That's a common, common comment from folks in our community. Why isn't there one over here? Why are we getting three now? We already got one in Waimea Valley. We got one in Kahuku. Where are you guys' ahupua'a's contribution? Only us?

Anyhow, I'm full of facts and figures about wind turbines. I spent the better part of the last eight years studying this stuff. The current -- the current SunEdison project, which used to be First

Wind, the current project is 4,100-some-odd feet away. They are 425 feet tall. The only way to mitigate impacts of wind turbines on humans is to increase the proximity, the distance, between these things and people. That's the only way to do it.

So the current one, even though it's having issues on our community, is well within the city and county's current one time's the height of the system. The problem is there are still impacts on people even though it's that far away. Now we're looking at this proposal by the applicant to put 656-tall machines. The tallest structures will be -- the current ones are the tallest structures in the state of Hawaii. Now these will be that much and then some, three times closer to us than the existing First Wind/SunEdison. And if you don't think there's going to be impacts, you guys are living in some other different world because I'll tell you straight up, there will be.

Now, the applicant, I don't have anything against them. I just -- I just will tell you that what they're telling us and what's going on in our community is a whole different story than the real world what happens when these things come into people's communities. Some of these guys from the

applicant's side pretend that they're from our community. They may have been at one time, but they no longer live there. They live on the other side of the island and they're selling themselves off as community members. They're not community members. They live far enough away from them where it won't impact them.

So I really do encourage you guys. I mean, I can go on the rest of the day. I've been at this, again, I told you how many years. The issue being is that nobody's listening. Nobody's listening.

Jeffrey Ono from the State of Hawaii in testimony that he gave to House Bill 1384 in regards to increasing the setback mentioned that a setback cannot be a random number. I'm onboard with that. It cannot be just a random number, cannot pull something out of the air and say it cannot be closer than this. However, if it's on a ratio and scale, then it does make sense. The current rules in the city and county were for little tiny 80-foot-tall things to pump water or make electricity for small farms. I understand that. Or a small, standalone, independent system.

These industrial-sized turbines, however,

are not these little tiny -- these are huge things. I guess you got the scope of these things, but the country that has had the most experience with wind turbines per capita is Germany. In Bavaria, they require 10 times the height of the system as a setback from humans because of the impacts that people have had. There's more turbines per capita in Germany than any other country. So 10 times --

The current facility is 400-some-odd feet away. They're almost in compliance with that rule by luck. These guys will be way inside of that. So if it's 656 feet tall times 10, 6,560 feet away from the residents, then it's not -- it's not just a number pulled out of a hat.

So I would suggest that you guys from the state get together with Jeffrey Ono and other guys who seem to have some understanding of potential impacts or real impacts on people, that you guys really got to get together and come up with a better system than just saying, "Well, this is our property and we want to conform to this energy initiative that Linda Lingle's administration initiated." Not that it was a bad thing. I can agree with that it was a good thing, but it doesn't say how we've got to get there. It doesn't say we've got to get there by

wind. We can get there by solar, by hydroelectric, by other kinds of other things. And before we make a decision that the community of Kahuku is going to be paying for for the next 30 years, we need to really sit down and think about that. I mean, is it fair for one community to suffer the brunt of the entire island's desire for energy? I don't think it's Kahuku's role to do this. And I'm hoping there will be questions and answers. Any questions?

MS. MINN: That's not what we're here to do today.

MR. HIROKAWA: Again, we're just taking testimony. Just to clarify too, it will go before the board to be decided, and the board at that point has the option to engage.

MS. MINN: We're not the decision-makers.

MR. FONOIMOANA: I got that and we're just giving testimony. So my question then did you folks receive the testimony that I hand-delivered last week --

MS. MINN: We received your email as well.

MR. FONOIMOANA: -- and my email as well? I'm here to just cover all my bases and to understand that I am motivated to do this. I take seriously the

role that I play in my community. I am their representative. And for us to be shut out, we have been completely shut out on the state side. I'll be honest with you right now, the PUC, they completely disregarded us. And I came in here before in 2014 and sat here with the then chief of the DLNR, Mr. Aila, and had them pretty much do the same thing, disregard us, and I think that that's the wrong way to go and that's about it. Thank you.

MR. HIROKAWA: Did we get his name on the record?

Okay. Thank you, sir.

Anyone else wanting to testify at this point?

MS. MINN: And we are accepting written testimony as well if you'd like to give us written testimony either today on hard copy or email.

MR. FONOIMOANA: Up until the 31st, I understand.

MS. MINN: Yes.

MS. RAGO-KA'ILI: Scott, do you want to go?

MR. BRADSHAW: I'm here as the applicant.

MS. RAGO-KA'ILI: Oh, but you're not here to testify? I'll go.

Hi, you guys. I'm Liz. I'm a resident at Kahuku.

MS. MINN: Just state your last name.

MS. RAGO-KA'ILI: Sure. Rago, R-a-g-o dash Ka'ili, K-a okina i-l-i.

So I'm a resident of Kahuku. I cofounded Mothers Against Industrial Turbines in Kahuku, and I sit on various boards, Hawaii Community Foundation. Anyway, other boards.

So I guess I want to say two things before I start. One is which I am terrified of public speaking, and even though this is like a small room, I'll lose my words or I can't retrieve them or whatever. So I just ask that you listen to the meaning of what I want to say, not how horribly I'll say it.

The second thing before I start is to let you folks know that all of our elementary schools and high schools in our area are Title III. 70 percent are on free lunch, which is to say that people aren't here because they're usually working or they cannot make it. And a lot of -- a lot of the reason the presence isn't there is because, again, they're in the community or whatever is because, again, they're working. So Patsy Brown is one of them. She has

this mango 'otai booth that's working her children through college and there's a lot of stories like that. So they haven't been able to actually be verbal, and, also, I wonder if there's an issue around having faith that they'll be heard anyway. So I guess I just want to say that why there's two people.

The third thing is we have -- my house has solar panels. So we got our solar panels for $14,000 and it has a 20-year warranty. We pay HECO $15 a month. And it turned out our tax refund was $14,000. So we actually are getting basically free energy, I mean, $15 a month, but free energy for the next 20 years. And it's really worked out for us in terms of finance, obviously, but, also, my husband and I are really conscious, especially living on an island, of our impact. So even before we got the panels, we were very aware. We hung up our clothes on the clothesline. We're very aware of, again, our impact. So we actually support the goal of 2050 and I believe we can make it. I don't believe these turbines, though, are going to get us there. There are nine turbines, and they will contribute to less than one percent of the energy total, and the cost is great compared to the benefits, which are small.

So I guess I want to start my testimony now. I mean, it has been started, but with all that said, when I was the secretary of the -- on the board of the Kahuku Community Association --

I'm totally boring you. I'll speed it up.

MS. MINN: No, no, no. It's not really for us. It's for the board, anyway.

MS. RAGO-KA'ILI: Okay. So when I was the secretary of the board of Kahuku Community Association, we were in a meeting, a board meeting, and I found out there was this meeting. So there was the environmental impact statement that Tetra Tech did and that Champlin went and hired Tetra Tech to do. Then they came back and they wanted the higher turbines which are --

How high did they want it?

MR. FONOIMOANA: Oh, it went from 425 to 512. Now it's 656. Next year, they might be 1,000- --

MS. RAGO-KA'ILI: Stop that. So 425 to what? 652?

MR. FONOIMOANA: 612. I mean, 512 to 656.

MS. RAGO-KA'ILI: Okay. So 656. So we

were expecting from the first environmental impact of four whatever to now 612. And so the second -- so they had to come back and do a second, whatever, environmental impact statement.

So I found out about this second meeting as part of the environmental statement through sitting on the board and it was vague. Okay. There's supposed to be a meeting. We found out through word of mouth in our small community that it's going to be on a Tuesday and who knows what time. The time gets closer, and I'm calling Fish and Wildlife because I'm thinking they're part of this whole big thing because they were before. They have no idea a meeting is going on, let alone the day and time. The person over there calls me back and, like, had called three other departments that had nothing to do with Fish and Wildlife. They didn't know of a meeting. I go on the Na Pua Makani website. There was no meeting announcement. So I'm sitting here trying to think, like, okay, we have no idea and none of the agencies that were part of the initial environmental impact statement even know about this meeting. So -- the second meeting. Am I making myself clear.

Okay. So we didn't know about it. How

we ended up finding out is there's an elderly couple who live just down the road and they go to the Foodbank just as a -- yeah, they go to the Foodbank. And the Foodbank happens in Kahuku once a month. They said that there were random flyers that they saw at the Foodbank and that they were just kind of willy-nilly passed out. Nobody looked at them, threw them away, and they don't remember a day or time. That's the extent.

So I'm a clinical social worker, not an attorney, but that's also against the law. They didn't follow what they should have followed, which is to make sure that they did everything possible to ensure that the community had a voice. Not only that -- sorry. I'm going to -- I took notes.

Because that's an environmental justice issue. They know that we're all Title III schools. They know that we're a poor community, and, yet, they prayed on all that thinking --

I guess I just want to say also, because of all this, there's never a threat of lawsuit. Like, companies can come in and they know that they won't be sued, which wouldn't be the case in Koko Head or certain places of Maui or Kauai or whatever. We're poor. Anyway, so they can,

basically, do anything they want and get away with it. They can. Or I hope they can't this time, though.

So federal Fish and Wildlife didn't disclose a new height requirement so that the community could comment on the flicker, the blinking lights, and the specific addresses to be affected by it. So I guess that's just what I want to say. That's not okay for them to do that, and I don't think it's legal for them to do that. They didn't disclose this new height to us. And even in the meeting that I ended up -- we ended up -- the second meeting for the second environmental impact statement that we ended up finding out about again all willy-nilly, we kind of guessed, okay, it's usually at 6:00. We'll just go at 6:00. None of the agencies were there. Nobody was there except for Tetra Tech to represent what was going to be going on.

So we didn't get an opportunity, again, to ask the Fish and Wildlife which addresses are going to be impacted by the flicker, by the blinking lights. That's a significant height requirement and we weren't notified of it. And Fish and Wildlife and whatever federal and state agencies, I don't know if

they were notified either because nobody showed up from them. And then also my -- not my contact, but whoever I called had no idea about the meeting, and they should have known, and they would have known, and they would have taken -- like the first time, they would have taken -- the state and federal, whatever, would have taken every opportunity to let the community know like they did in the first environmental impact statement.

I guess I just want to emphasize that I'm aware that it's against the national EPA, whatever it's called, because it is praying on the poor, knowing that we can't sue and we don't -- knowing that we don't sue. We don't have the resources to sue.

Okay. So my other issue, again, knowing that I ramble because I have an issue with public speaking, is the hoary bats. So my understanding is there needs to be a double-net benefit. So from my understanding is if Champlin kills one bat, they'll give $10,000. Half of that goes to some study, and I guess on that point, they don't say what kind of study they're going to do. Like, it could be -- it's on bats, but they're not specific, and they need to be specific on what exactly they're going to study

with bats, and there isn't a study team who can outline and that's not fair. That's not okay and it's against whatever policies, but the second half is about managing the conservation.

Other companies around the world and I don't know about Hawaii -- I think other companies around Hawaii actually take a piece of land and make it a conservation. They don't manage a piece of land that's already -- already --

What's the word?

-- already designated as conservation. So I think that the mitigation plan is -- I don't know how they pushed it through. I understand that the state and federal folks have -- they have certain guidelines that they have to go by. So at times, they may not even agree with the guidelines, but there are still federal and state guidelines and they have to go by them. But I think this is an area where Champlin skirted the law. I really think that this is a gray area where DLNR or whoever can come in and say, "Look, this isn't okay." For a hoary bat, which is, you know, the second mammal of our state, one of two mammals of our state that's endemic to our state, I think it's a bogus plan, and I really would like DLNR to consider having Champlin redo the whole

mitigation plan because it's not -- be more specific about the research and the research plan, and then also look at a whole different piece of land that they will use for conservation.

So I guess I'm asking three things. The first thing is that this whole project, because it has been really skirting -- it skirts. You know, there's all the dishonesty and all the verbal stuff and kind of --

I mean, you do get used to it living in this small town with companies coming in. That doesn't make it okay, but that's what's been happening. But there's also the legal issues of them praying on this town that's poor, and they know we're not going to sue because we can't afford it.

So my -- I guess my three requests is that this is -- the first one is that this whole project just be canceled, at least for Kahuku, and maybe, you know, they can move it somewhere else. I don't know. Because it's just all shady, all the reasons I stated.

Then my second hope in coming here is if it can't just be canceled by DLNR because of all the shadiness and all the illegal and the legal things that they did procedurewise, that they at least move

the turbines back. This is half a mile from our elementary school.

So I guess part of it for some people is the view or the obstruction of the view, but for other people, it's about having special needs kids who have hearing sensitivities to infrasound, and our hearing mothers all over the world who are in proximity of these turbines talk about their autistic children with hearing sensitivities, who are impacted negatively, who have to move. And the reason the two families --

One moved from Vegas and one had lived here forever. The reason that they moved out was because their children couldn't -- they would, literally, be banging their heads against the wall during the times that the turbines were going faster. So this is anecdotal; right? So they said that they would have to, like, at 2:00 or 3:00 in the morning when it was really windy, take their children out to -- so here in Kahuku, they take their children to Hau'ula, which is, like, five or six miles a way, and then their children could sleep in the car with the parents. So that's really a concern for a lot of folks in our community. And then I want to say that's it.

MS. MINN: Thank you.

MS. RAGO-KA'ILI: Thank you, guys. There was a third thing I had, though.

MR. HIROKAWA: Again, we'll still be here. So if you want to come back up, but don't be nervous. You did well.

MS. RAGO-KA'ILI: I can't help it.

(Pause in proceedings from 1:36 p.m. until 1:56 p.m.)

MS. RAGO-KA'ILI: Elizabeth Rago-Ka'ili.

Another issue that I forgot is that neighbors -- lots of people everywhere in Kahuku have been waiting for their solar panels to be approved, including neighbors of ours. A road that I go to a church, that encompasses about half of Kahuku. So lots of people have applied and been waiting. So the worry is that with these turbines, they'll saturate the grid, and then people won't be able to choose to have their own solar panels. And that's -- I'll be continued.

(Pause in proceedings from 1:57 p.m. until 2:03 p.m.)

MR. FONOIMOANA: Mine is procedural. When we're done giving testimony at this point, then it goes to the decision-makers?

MS. MINN: Yes.

MR. FONOIMOANA: We're going to be requesting that they come out to our area, potentially. What's the window time frame between today and, say, next week, you get a request from our community? Because for all I know, the decision-making process is a week or 10 days. Usually there's a -- isn't there a set amount of time?

MR. HIROKAWA: The board meets -- well, not counting November and December since there's only one meeting, the board meets on the second and fourth Friday of every month, and the agenda is publicized the Friday before the board meeting. So at this point, the earliest, I think, would be the --

MR. FONOIMOANA: Will we be notified, those of us who are, like, here now?

MS. RAGO-KA'ILI: We have to go look on the site.

MS. MINN: There's a general public notice for the general public where we post the agenda. So every first and third Friday is when the agenda for the second and fourth Friday is posted.

MR. HIROKAWA: And we talked about the legal citations earlier. 171-95.3 requires, like, a

general publication. So it would be the same as this meeting. There would be a notice in the paper as well.

MR. FONOIMOANA: That's the problem. The notice is in the paper. You have to read the paper. You have to have a magnifying glass for the ones in the classifieds.

MS. RAGO-KA'ILI: Sorry. Can you repeat -- I mean, we can just take -- I mean, everybody read a page.

MR. FONOIMOANA: I'm not entirely done with my line of questioning. So once the hearing -- whenever the decision-makers have their hearing, whether it's here or there or wherever and then they make -- they come out with a decision, so if the decision is not favorable to the community's position, isn't there 10 days -- isn't there a time frame too where you can file a contested case and what is that time frame?

MR. MOORE: To file a contested case, you have to be present at the meeting and request a contested case before the close of the meeting, and you need to follow up with a written petition within 10 days of the meeting.

MR. FONOIMOANA: I know that there's a

10-day stipulation in there somewhere.

Now, that meeting is not -- it would be the one that would be after that will be held in our community?

MS. MINN: No. They're not going to hold a board meeting in your community because when the board meets, it's for everything on that agenda, not just your specific --

MR. FONOIMOANA: I'd just like --

MS. MINN: Right. So if you would like to request them to come out to your community separately from the scheduled --

MR. FONOIMOANA: Just on that agenda item?

MS. MINN: Right. So the board hearing is always going to be here in the boardroom because it's for all the agenda items of that meeting.

MR. FONOIMOANA: I got that.

MS. MINN: Yeah, yeah. So you would have to be at this board meeting, the regularly scheduled board hearing, and then request for a contested case at that hearing.

MR. FONOIMOANA: At that point.

MS. RAGO-KA'ILI: Can you repeat -- okay.

MR. FONOIMOANA: Not understanding the

mechanics of the DLNR or the state bureaucracy can be just like a web of confusion, that would be in-house, not related to the Land Use --

MS. MINN: The Land Use Commission is not related to --

MR. FONOIMOANA: I can't remember the last word.

MS. MINN: That's a completely separate body and they're ruled by different statutes.

MR. FONOIMOANA: They don't have anything to do with this decision whatsoever at this point or at any point?

MS. MINN: No. The land use is agricultural, and renewable energy is a permitted use on agricultural-zoned land. So the land use for this specific project is not at issue.

MR. FONOIMOANA: Well, it's not, but maybe it should be.

MS. MINN: That's something you would need to take up with them. We don't have anything to do with that.

MR. FONOIMOANA: Depending on the amount of important agricultural lands that are being withdrawn from the inventory due to them denuding the area so that they can count all the dead critters

easier.

MS. MINN: That's a separate issue. That's not before us.

MR. FONOIMOANA: Thank you for answering my questions.

MR. MOORE: So we'll take written testimony for this hearing until the 31st, but I guess we should also clarify you can submit testimony from the board meeting that takes up the lease request also. So you'll have additional opportunities to submit.

MR. FONOIMOANA: Today is just about the lease; right?

MR. MOORE: Yes.

MR. FONOIMOANA: Well, I don't anticipate you guys ruling in the community's favor.

MS. RAGO-KA'ILI: Really? I do.

MR. FONOIMOANA: My faith in our government is kind of stretched at the moment.

MS. RAGO-KA'ILI: My faith in the state, it's not stretched.

Sorry. Can you just repeat when the board meetings are and then where we can find the agenda for the board meetings?

MR. HIROKAWA: The board meetings are

held on the second and fourth Friday of every month with the exception of November and December, and I believe there's only one meeting on the second Friday of every month.

MR. RAGO-KA'ILI: Second and third --

MR. HIROKAWA: First Friday -- excuse me -- of every month. But, normally, if you're talking about September/October, it's the second and the fourth Friday of every month.

MS. RAGO-KA'ILI: Oh, second and fourth.

MR. HIROKAWA: Yeah. And the agenda is put forward a week before the board meeting. However, normally, the agenda is just posted on our website, but in this case, the manner will be to put the public notice in the newspaper.

MR. FONOIMOANA: I got a real, maybe, stupid question.

MS. RAGO-KA'ILI: I'm not done with mine.

Okay. Can you repeat November and December again?

MR. HIROKAWA: Whatever the first Friday is of the month of November and December. Every other month is the second and fourth.

MS. RAGO-KA'ILI: First Friday in December, and then the agenda goes out a week before

the first Friday?

MS. MINN: That's just because there's holidays in those months, and the board members volunteer. So we try to accommodate them.

MR. FONOIMOANA: Based on my history because I've been through again --

MS. RAGO-KA'ILI: Sorry. This is --

You're killing me.

This is DLNR just for the lease land or all?

MS. MINN: No, no, no.

MR. HIROKAWA: The board -- okay. The board -- the next decision before the board is whether or not to approve the lease of state lands for the project. We're not making any kind of permitting or regulatory decision.

MS. MINN: But that is just going to be one item on their agenda for that regular meeting. There are going to be a plethora of other issues that they have to address at that same meeting.

MS. RAGO-KA'ILI: Okay.

MR. FONOIMOANA: And they will be sitting over here?

MS. MINN: Yes.

MR. HIROKAWA: That's what we're saying.

If you want to take make a written request otherwise, please do so in writing, but direct it to the chair.

MR. FONOIMOANA: On that specific agenda item?

MR. HIROKAWA: Right. You can make that, but like I said, please do so --

MS. RAGO-KA'ILI: Okay. So two questions: Website page, do you know it, and then who can we write our written testimonies since I'm much more coherent when I write? Barely, but --

MS. MINN: The website is --

MR. MOORE: It's DLNR.Hawaii.gov.

MR. FONOIMOANA: They got mine. I must have got it right.

MS. RAGO-KA'ILI: And then what's the email address?

MR. MOORE: Well, for the chair's office or for our division?

MS. RAGO-KA'ILI: Whoever I can write what I just spoke about.

MR. MOORE: You can send that to DLNR.land@.Hawaii.gov.

MR. HIROKAWA: So just to clarify too, whatever comments were made verbally at these hearings as well as, like, the written testimony and

email testimony will be compiled and provided to the board as well.

MS. RAGO-KA'ILI: Okay. And we get -- the members on the board are on the website?

MR. HIROKAWA: I believe there is a listing of the board members on the website.

MR. FONOIMOANA: To eliminate any possible slipping through the cracks from my point of view, since we've been here today testifying, are we going to be notified or do we have to keep looking at the agenda to see when it is? That seems to have been a common issue with this particular project, or maybe it was other projects and it's just my experience that you have to dig for yourself to find out when these are.

MR. MOORE: I think and I recommend you contact the board secretary on this question, but I think you can sign up on an email distribution list that will send you the agenda for each board meeting.

MR. FONOIMOANA: That will be helpful, but how about if you just want to be notified about one specific issue on one specific board meeting agenda item? That way you can eliminate everything else and only the one that's germane to you --

MS. MINN: It's impossible to do that for

everybody.

MR. FONOIMOANA: I'm just kind of lazy. That's why. I'm looking for the easy way.

(Pause in the proceedings from 2:14 p.m. until 2:29 p.m.)

MR. HIROKAWA: At this point, we'll close it out and it's 2:30. Meeting's over. Thank you very much for coming, and, again, please, you know about the future process. So keep an eye out for that.

MS. MINN: If you have any more testimony you'd like to submit, please email it before the 31st, or if anyone else in the community that you know of would like to testify and couldn't come today, they can always email or mail it to us.

(Hearing adjourned at 2:30 p.m.)

C E R T I F I C A T E

STATE OF HAWAII)
) ss.
CITY AND COUNTY OF HONOLULU)

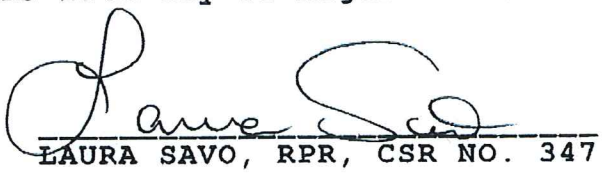
I, LAURA SAVO, a Certified Shorthand Reporter in and for the State of Hawaii, do hereby certify:

That the foregoing proceedings were taken down by me in machine shorthand at the time and place herein stated, and was thereafter reduced to typewriting under my supervision;

That the foregoing is a full, true and correct transcript of said proceedings;

I further certify that I am not of counsel or attorney for any of the parties to this case, nor in any way interested in the outcome hereof, and that I am not related to any of the parties hereto.

Dated this 29th day of August 2016 in Honolulu, Hawaii.



LAURA SAVO, RPR, CSR NO. 347

NA PUA MAKANI WIND ENERGY PROJECT

Oahu, HI

The Na Pua Makani Wind Energy Project (the "Project") is a proposed up to approximately 25 MW wind energy project that would consist of up to nine (9) wind turbines along with other improvements including roads and transmission lines, an operations and maintenance building and substation. The Project is proposed to be developed on the north shore of Oahu near another existing wind energy project on approximately a 232 acre site owned by the State (DLNR) and an adjacent approximately 450 acre parcel of privately-owned land. Up to five turbines would be constructed on the DLNR owned land parcel and four turbines would be constructed on the adjacent parcel.

Na Pua Makani Power Partners, LLC (NPMPP) is requesting a direct lease pursuant to Hawaii Revised Statutes (HRS) Section 171-95 for the State owned parcel, TMK (1) 5-6-008:006, with an area of approximately 232 acres. The parcel is within the State Land Use District Agricultural and was previously set aside to the Hawaii Department of Agriculture via Governor's Executive Order (EO) 3867 for Kahuku Agricultural Park purposes. However, the DLNR owned parcel has been designated as surplus and unsuitable for agricultural uses due to the steepness of the terrain and no existing water infrastructure and has been removed from the Kahuku Agricultural Park pursuant to Board of Agriculture approval May 27, 2008 and EO 4482 dated March 23, 2015. The DLNR owned parcel is currently vacant. NPMPP also entered into a lease with Malaekahana Hui West, LLC for use of private lands adjacent to the DLNR owned parcel and is seeking an access easement from Department of Agriculture for access through the Kahuku Agricultural Park. The total leased area plus the State-owned access is approximately 707 acres. Within the leased area, all proposed Project activities would occur within a smaller approximately 464-acre Project area.

In accordance with HRS Section 171-95.3, the following information on the proposed Project is provided:

Timeline for Completion of the Project

The Project has been under development since 2008 and the Board of DLNR (BLNR) first approved and issued a Lease in Principle in 2008. The Project has completed an Environmental Impact Statement (EIS) which concluded that there are no significant adverse impacts and the EIS has been published in both the Federal Register and the State OEQC.

The Project also entered into a Power Purchase Agreement (PPA) with Hawaiian Electric Company (HECO) to purchase 100% of the output from the Project for a twenty (20) year term. The Public Utility Commission (PUC) approved the PPA in December of 2014. The Project will be the lowest cost wind energy project in the history of Hawaii and will help stabilize and reduce electricity costs of residents of Oahu over time. The Project will also help Hawaii reduce imports of foreign oil.

The Project is expected to start construction in 2017 and expects to be in commercial operation by the end of 2017 or 1st quarter of 2018.

EXHIBIT 4

NA PUA MAKANI WIND ENERGY PROJECT

Oahu, HI

Financing Plan

The construction of the Project would either be financed internally by the parent company of Na Pua Makani Power Partners ("NPM") or its affiliate, i.e. "on balance sheet" or NPM would secure traditional third party project financing commitments from third party lenders.

Conceptual Design of the Project

The Project design is attached as Exhibit A.

Business Concept of the Project

The purpose of the Na Pua Makani Wind Project is to provide clean, renewable wind energy for the island of Oahu, and to assist HECO in meeting Hawaii's Renewable Portfolio Standard (RPS) requirements and the State's goal to reduce electricity costs. The Project will help Hawaii meet the requirements of its new law (Act 97) passed in 2015, requiring 100% of Hawaii's electricity be generated from renewable resources by the year 2045. The cost of electricity from renewable energy is currently about one-half the cost of electricity from burning oil. Toward that end, NPMPP will sell power to HECO under a long-term, fixed-price contract with fixed annual escalation providing long-term price stability for consumers. This Project will help HECO meet its RPS requirements and is included in HECO's Power Supply Improvement Plan submitted to the PUC.

NPMPP anticipates that operation of the Na Pua Makani Wind Project would contribute to the State's diversified portfolio of renewable energy projects, provide environmental and economic benefits to the State and local communities, diversify Oahu's power supply, and contribute to the State's energy independence and security and reduce the import of foreign oil.

Landscape and Acreage Requirements

Wind projects require good wind resource, adequate and available transmission capacity, available contiguous land that is designated to allow wind energy development, and adequate site conditions. It is well documented that the North Shore area of Oahu has the best wind resource on the island. Beginning in 2009, temporary met towers were installed within the Na Pua Makani wind farm site to obtain in-depth information about the onsite wind resources. The results of 4 years of data collection determined that there is sufficient wind resource within the wind farm site for a viable project. Additionally, for a project site to be viable it must have access to adequate and available transmission capacity and be located in proximity to existing transmission lines. The Na Pua Makani wind farm site is located within approximately 1 mile (1.6 kilometers) of HECO's existing transmission system, which was determined by HECO to have an adequate capacity to support a wind project of up to approximately 25 MW without substantial transmission upgrades.

Wind projects also require available contiguous land that is designated to allow wind energy development and large enough to accommodate turbine manufacturer spacing requirements and required setbacks. TMK (1) 5-6-008:006 is classified as Agricultural District by the State Land Use District, and AG-1 and AG-2 Agricultural zoned by the City and County of Honolulu. Wind energy facilities are a

permitted use on State Agricultural District lands and are a permitted use with a Conditional Use Permit (minor) approval within lands zoned AG-1 and AG-2, per City and County of Honolulu Land Use Ordinance (LUO) Table 21-3, Article 3. Per LUO § 21-5.700 a setback distance from all property lines a minimum distance equal to the maximum turbine tip height above ground is required. The tallest turbine proposed on the DLNR owned parcel is approximately 656 feet (200 meters), requiring a sufficiently large parcel area in order to site the turbines within the setbacks. Additionally, the topography of the wind farm site must be conducive to construction of wind turbines as placement of turbines in gullies would not be viable to effectively make use of the wind resource within the wind farm site and the cost of constructing the turbines in gullies would compromise the economic feasibility of the Project.

No landscape requirements are set forth for Wind Machines in the LUO. Under the AG-1 Land Use District, a minimum lot area of 5 acres is required and under the AG-2 Land Use District, a minimum lot area of 2 acres is required. The parcel covers 234 acres and is therefore compliant with the minimum lot area requirements for both land use districts.

NPMPP provided the Department of Business, Economic Development, and Tourism ("DBEDT") with a copy of this report and requested no assistance of DBEDT in the development or completion of the report pursuant to section 171-95.3, HRS.

From: Larry Nihipali
Sent: Monday, August 15, 2016 10:49 PM
To: DLNR.CO.PublicDLNR; DLNR.LD.DLNRLand; Kent Fonoimoana-TRIsland
Subject: Na Pua Makani Wind Project

Since moving to Kahuku in 2012, I've noticed that the noise from the wind generators of the current wind farm (First Wind) have increased. They bacame more audible and noisier since I use my hearing aid.

Seeing the windmills daily has a depressing feeling on me as I drive up the street where I live. Why is the government bent on treating its taxpayers the way they do. They have sold our health and well being. Instead of returning the excess taxes that they have stolen from working class people, they spend it on useless projects.

I'm not in favor of allowing the increase in height of the towers. It will only allow longer, bigger blades to capture the wind. It will also create more noise.

To reduce noise, I suggest that these wind towers be located further away from the housing project, schools and in Hawaii Kai,or Waimanalo (they have better and constant wind there).

Larry Nihipali

EXHIBIT 5

RECEIVED
2016 AUG 15 PM 3:03
DEPT OF LAND & NATURAL RESOURCES
STATE OF HAWAII

Kahuku Community Association

P.O. Box 7 Kahuku, HI. 96731

To Whom It May Concern,

Dated August 14, 2016

On Behalf of Kahuku Community Association (KCA) and as authorized by its Board of Directors on Friday August 12, 2016 online Special Session, as its Chairperson, I am writing to:
Convey again KCA's ongoing petition, "Kahuku Community does not support any further building of Industrial Wind Turbines (IWTs) in Kahuku Sub District #01, Ko'olauloa, City & County of Honolulu"; (see attached communication from KCA President Ralph Makaiau to Honolulu City & County, Department of Planning & Permitting Director David Tanoue dated March 1, 2010)

KCA further supports, for past and future consideration of IWTs City & County of Honolulu with special consideration to residential zone and land zones abutting residential zone, with reference to group Makani Pono 'o Kahuku, "set back buffer zone for IWTs (10 X the height of individual IWT) inclusive to schools, medical, recreational or other similar people gathering place".
KCA further supports the results of a voice vote taken on February 13, 2014 in which Ko'olauloa Neighborhood Board vote of 8 - 0 in specific opposition to Na Pua Makani Wind LLC's proposal as recorded in the minutes by Neighborhood Commission Office staff. (See attached minutes)
KCA further supports Ko'olauloa Neighborhood Board #28 Chairperson Moore's letter of opposition to Na Pua Makani LLC's project as well as a plea to withhold the required permits. (See attached letter dated August 14, 2016)

The constituents of Kahuku Community Association and its Board of Directors, being the only community on the island of O'ahu having lived in the shadows of Industrial Wind Turbines for over 2,200 solitary days and nights of penance, humbly request you please hear our plea for physical/emotional relief.

RECEIVED
2016 AUG 15 PM 2 09
DEPT OF PLANNING
& PERMITTING
CITY & COUNTY OF HONOLULU

Respectfully submitted,

Kent Fonoimoana,
President - Kahuku Community Association

cc.

Honorable Mayor Caldwell, City & County of Honolulu
Council Chair Ernie Martin, City & County of Honolulu
George Atta, Department of Planning and Permitting, City & County of Honolulu
Chairperson Verla Moore, Ko'olauloa Neighborhood Board #28, City & County of Honolulu
Honorable Governor Ige, State of Hawaii
Chairperson Pane Meatoga, Laie Community Association, City & County of Honolulu
Director Suzanne Case, Department of Land & Natural Resources, State of Hawaii
Hawaii Reserves Inc. President Eric Beaver, Abutting Land Owner
Aaron Campbell, Land Owner/Representative

RECEIVED
2016 AUG 16 AM 10:47
DEPT OF LAND & NATURAL RESOURCES
STATE OF HAWAII
LAND DIVISION

Kahuku Community Association

P.O. Box 333 Kahuku, HI. 96731

March 1, 2010

2010 AUG 15 PM 2 09
DEPT OF PLANNING
and PERMITTING
CITY & COUNTY OF HONOLULU

Director David Tanoue
Department of Planning and Permitting
650 South King St., Honolulu, HI. 96813
E-mail: info@honoluludpp.org

Director Tanoue,

As President of the Kahuku Community Association it is my privilege to communicate to the Department of Planning and Permitting our concerns regarding proposed wind energy development in the Kahuku area.

O'ahu Wind Power Partners L.L.C. (OWPP) is a wind energy developer that has proposed a 25 megawatt wind farm in the Kahuku State Agricultural Park, Lot 1168, Tax Map Key: (1) 5-6-08:6. The president of OWPP, Mr. Keith Avery presented his proposal to the Kahuku Community Association Board, January 21, 2010 for the first time. He proposes to construct ten (10), 2.5 megawatt turbine generators, each unit standing at an overall tower height of 420 feet. At this meeting, several community impact concerns were brought up for his consideration.

The Kahuku Community Association Board of Directors (KCA Board) relayed to Mr. Avery our impact concerns which included: proximity, safety, health and infrastructure issues associated with these large turbines/towers. Noise levels, visual impact, and adverse affects on real property values were also discussed. Based on these impact concerns, the KCA Board made it known to Mr. Avery that the community cannot support the placement of four (4) of the ten turbine/tower sites proposed. The four turbine/towers are located on foothills abutting Ko'olau Housing.

As you may be aware, SB 2526 has been introduced to allow placement of wind farm turbine/towers within State agricultural parks. The KCA Board opposed this measure as the set back distance introduced would not provide us with the relief we seek. We support renewable energy. However, we oppose locating these four particular turbines/towers in close proximity to our densely populated residentially zoned neighborhood.

These four proposed turbine/tower sites also pose a risk to our 500,000 gallon BWS potable water storage tank, as well as, Kahuku's only potable water well source, truck farming structures and property roadway accesses.

In an attempt to be proactive on this matter, KCA Board respectfully request notification, in writing, should OWPP or any other winds developer apply for permits to install wind farm components within the Kahuku area. We seek opportunity to comment at that juncture. Thank you for your attention on this matter.

Mahalo

Ralph K. Makaiau
President, Kahuku Community Association

Koolauloa Neighborhood Board No. 28

Printable Version (copy and paste into browser)
http://www.honolulu.gov/rep/site/nco/nb28/14/28201402min.pdf

2016 AUG 15 PM
DEPT OF PLANNING
AND PERMITTING
CITY & COUNTY OF HONOLULU

DRAFT REGULAR MEETING MINUTES
THURSDAY, FEBRUARY 13, 2014
HAU'ULA ELEMENTARY SCHOOL

CALL TO ORDER: Chair Verla Moore called the meeting to order at 6:02 p.m. **Quorum was established with seven (7) members present.** Note – This 11-member Board requires six (6) members to establish quorum and take official Board action. Chair Moore welcomed everyone and went over the rules of speaking: Speakers wishing to address the Board need to be recognized by the Chair, and are allowed a limit of two-three minutes to speak.

Members Present: Kent Fonoimoana, Creighton Mattoon, Kela Miller, Kerry Moea`i (arrived at 7:09 p.m.), Verla Moore, Larry Nihipali, Hans Taala, and Norman Thompson.

Members Absent: Burton Greene, Dee Dee Letts, and Gaylene Lolofie.

Guests: Firefighter 3 Ryan Aoki (Honolulu Fire Department), Lieutenant Dave Eber (Honolulu Police Department), Adam LeFebvre (Mayor Kirk Caldwell's office), Representative Richard Fale, Mike Sakata (Councilmember Ernie Martin's office), Carolyn Unser (First Wind), Josephine P. Bird, Marvin Iseke, Andrea Anixr, Junior Primacio, Kurt Fonoimoana, Feki Pouha, Richard Mamizuko, Matt Mamizuko, Pauline Mesaniai, Te`e Masaniai, Choon James, Gil Riviere, Mervin Kehala, Tevita O. Kaili, Oreta M. Tupola, Nine Jean Suschnigg, Patti Olson, Douglas Worrell, Evelyn Jane, Maeva Anderson, Raynae Fonoimoana, Aaron Curtis, Zeni Iese, Joseph Pouha, Glen Maghanoy, Kevin Salts, KC Connors, Carl Hubbell, and Jenilea M. Heath (Neighborhood Commission Office.)

Vacancies: There are no vacancies at this time.

Honolulu Fire Department (HFD) – Firefighter 1 Ryan Aoki reported the following:

- December 2013 Fire Statistics: The Ka`a`awa/Hau`ula/Kahuku fire stations responded to 0/0/0 structure fires, 1/1/2 wildland fires, 0/0/0 rubbish fires, 0/0/0 vehicle fires, 30/12/11 medical emergencies, 0/0/0 search/rescue calls, and 8/6/13 miscellaneous/service calls, respectively. There were no major incidents
- Microwave Oven Safety: Purchase a microwave with an independent testing laboratory label. Complete and return the product registration card to ensure the manufacturer will be able to notify the owner in the event of a product recall. Always supervise children when they are using a microwave. Do not microwave aluminum foil or Styrofoam.

Questions, comments, and concerns followed: Laie Point Incident: Aoki answered for Fonoimoana that the incident which occurred at Laie Point on Monday, February 10, 2014 is still under investigation. The issue of installing barricades at Laie Point would be either a City or State issue, and would not be a decision of HFD.

Honolulu Police Department (HPD): Lieutenant Dave Eber reported the following:

- December 2013 Crime Statistics: Statistics included 0 assaults, 9 vehicle thefts, 9 burglaries, 0 drugs/narcotics, 0 graffiti, 0 robberies, 23 thefts, and 15 unauthorized entries into motor vehicles (UEMV).

Questions, comments, and concerns followed:

1. UEMV: It was answered for Community member Marvin Iseke that four (4) UEMVs occurred in Kaaawa-Kahana, five (5) in Laie, and six (6) in Kahuku, for a total of 15

2. Kahuku Evictions: Community member Glen Maghanoy brought to the attention of HPD and the Board that he had been evicted from his home in Kahuku Villages while on vacation around Thanksgiving. Upon his return, Maghanoy noticed that many of his belongings were missing, including jewelry, instruments, and his childrens' toys. Maghanoy received no writ, and has filed a report with HPD. Maghanoy added that seven (7) other people will be evicted tomorrow. Chair Moore noted that if any assistance is needed from HPD, that 911 should be called at that time. It was added that evictions are a civil process, and that HPD is not directly involved. State Sheriffs are usually the law enforcement involved.
3. Responsibility: Community member Iseke noted that the process of the Kahuku Villages sounded illegal, and that someone should be held responsible. It was noted that the issue had been reported to HPD, and will therefore be assigned to a detective.

APPROVAL OF REGULAR MEETING MINUTES: **Taala moved and Miller seconded to approve the January 2014 regular meeting minutes as amended. The motion was ADOPTED by UNANIMOUS CONSENT, 7-0-0;** (AYE: Fonoimoana, Mattoon, Miller, Moore, Nihipali, Taala, and Thompson.)
Amendments were as follows:

- All Pages: The name Hong should be changed to Hoag. The name Vanderbeer should be changed to Vandeveer

TREASURER'S REPORT: Nihipali reported a remaining balance of $431.54. The report was filed. Chair Moore noted that the Board intends to move its location to Hauula Elementary School, which could incur additional cost.

COMMITTEE REPORTS:

CIP Report: Larry Nihipali reported the following:

- Paving of Kamehameha Highway: There is repaving of Kamehameha Highway from Heeia to Kahekili Highway. Nihipali noted a concern, and suggested communication between City and State departments, in order to avoid another incident as occurred in Hauula, where the highway was repaved by the State, but shortly after, the City repaired water mains and damaged the new pavement.
- Pumping Station: Nihipali raised a concern regarding the pumping station at Hanaimoa.

Cultural Affairs: Kela Miller reported that a meeting was held concerning the Ahupuaa signs in the Koolauloa area. The signs should have already been placed, but there is still discussion regarding their locations.

Education: Kela Miller reported the following for Gaylene Lolofie:

- New Kahuku High School Principal: Miller introduced the new principal of Kahuku Highschool, Paulene Masaniai. Masaniai noted that she had meetings with members of the school community council, and many residents have similar concerns. Masaniai graduated from Kahuku High School in 1983. She was previously a teacher, vice principal, and principal of Kahuku Elementary School. Masaniai has 30 years of experience teaching in Kahuku, and her children are currently students at the high school. Her goals include improving academic and extracurricular activities for the students.
- Thanks: Chair Moore thanked Masaniai for visiting, and noted that the Board looks forward to further updates from the school.

Health and Human Services: Creighton Mattoon reported the following: Health Survey: the National Center for Health Statistics (NCHS) is conducting a survey of Hawaiian and Pacific Islanders. The survey has been conducted annually since 1957. The NCHS is part of the Center for Disease Control (CDC). The organization is collecting statistics on health needs, risk factors, health behaviors, and other categories for Hawaiian and Pacific Islanders across the United States. The statistics will be used for policy planning to improve the health and wellbeing of all people. The survey is being conducted through the census bureau. Participation is voluntary.

Parks and Recreation: Chair Moore noted that Kerry Moea'i had a report prepared, but had informed the Chair he would be

- Laie McDonalds: The Laie McDonalds was closed on Monday, February 10, 2014. There is not yet an update on when a new location will be built. There is a proposed location on the Envision Laie website.
- McDonalds Location: Minor grading work has begun for the hotel which will be located at the location of the closed McDonalds. Groundbreaking will take place in the next four (4) to six (6) weeks.
- Envision Laie Concerns: Questions and concerns regarding Envision Laie (EV) were passed to the planners of the EV plan. Both questions and answers were long, and will be included in a full report, which Thompson will provide to Chair Moore.

Disaster Preparedness and Transportation: Larry Nihipali reported the following for Burton Greene:

- Tsunami Ready Certification: The committee responsible for certification of the National Oceanic and Atmospheric Association (NOAA) is currently finalizing the tsunami preparedness booklet that will be distributed to the Hauula community.

- Tsunami Booklet Grant: It was clarified for Chair Moore that a grant of $25,000 was given for implementation of the submitted disaster preparedness plan, however funds must be supplied upfront to purchase equipment, and to establish an emergency operations center. The funds would then be reimbursed, however that process is often lengthy. Over $5000 must be spent before reimbursement. The funds for the production and printing of the booklet are from a separate grant from the Hauula Community Association Initiative.

COMMUNITY REPORTS:

Kahuku: Fonoimoana noted the recent evictions at Kahuku Village.

Laie: Chair Moore reported that construction on the hotel at the old McDonalds location will be completed in 2015. Currently the project is waiting on the construction of an access road connection from the highway. It is not true that the McDonalds will be relocated to the current L+L Drive In location.

Hauula: Community member Choon James noted that a march had been organized for Sunday, February 16, 2014 starting at 11:15 a.m., at the Malaekahana cabins, on the Kahuku side. The march will continue to the Laie end of Malaekahana Park, and will be a silent march for kuleana lands. The march is specifically in regards to Bill 47, concerning Envision Laie.

Punaluu: Mattoon noted work being done at Punaluu Beach Park, and asked Council Chair Martin's representative Mike Sakata to follow up on what the work entailed, noting that it may be to make the restrooms Americans with Disabilities Act (ADA) compliant.

Kahana/Kaaawa: There was nothing new to report:

Mayor Kirk Caldwell's Representative – Adam LeFebvre reported the following:

- Rural Development Funds: The City Department of Transportation (DTS) is currently waiting on receipt of further information from resident KC Connors. The Mayor's proposed bus advertisements could help add bus routes and supplement service areas in need.
- Kahuku Golf Course: The golf course owner and prospective buyer are still working on finalizing a deal. Any further inquiries should be directed to Continental Pacific.
- Land Trust: The Maunawila Heiau will be moving into preservation, as an easement is being acquired from the Hawaiian Island Land Trust, with the City paying approximately $650,000.
- Kokololio Park Opening: On Friday, December 27, 2013, the Department of Parks and Recreation (DPR) staff member assigned to open the gates to the Kokololio District Park was sick, causing the gates to be opened late. DPR apologized for any inconvenience.

1. Kupuna Program: Fonoimoana noted that the Hauula Community Center used to have a Kupuna program which was funded in part by the City, and asked how such a program could be reestablished. Chair Moore added that the program included outings and activities for kupuna in the area, but was put on hold due to a family issue of the program administrator. LeFebvre will follow-up.
2. Emergency Preparedness Grant: It was noted by a community member that the City would be disingenuous to offer a grant of $25,000 to the community of Hauula, but expect someone from the community to front the money. Chair Moore added that the grant has a one (1) year expiration date, and if the funding cannot be found within that time, the grant will be lost.
3. Kahuku Superette: A community member noted flooding issues in the parking lot of the Kahuku Superette. During a recent rain, an elderly man's motor scooter tipped over in the poorly paved parking lot, and he fell in the water. Fortunately, students from Kahuku High School were present and helped him up. However the flooding and paving are issues for them also. Fonoimoana noted that the Kahuku Community Association (KCA) had also discussed the problem, and had brought it to the attention of the private land owner. There is a drain, but it had become clogged. The drainage issue involves City and State agencies.
4. Reynold's Recycling Permit: Community member Marvin Iseke asked why the City has only given Reynold's Recycling month-to-month permitting. LeFebvre answered that the last update stated that it was an issue with proper permitting, and the City was working with the State Department of Health (DOH) to acquire more permanent permitting.
5. Administration Funding: Community member Choon James noted that Mayor Caldwell says that there is not enough funding for certain issues, but intends to spend $13 million on the new Hauula Fire Station, and that Mayor Caldwell intends to charge $10 for each garbage pick-up. Community member James noted that once a fee is established, it will be increased, and added that the administration should focus on finding more creative ways to save money, as opposed to taxing residents. LeFebvre noted that the proposed garbage collection fee would be $10 per month, and that the change is intended to make the fee collection fairer, as some residents currently pay for garbage collection through taxes, and have to pay an additional fee through their homeowner or condominium association, and the City collection is not used. Lefebvre added that City garbage collection costs $50 per month per household.
6. Park Camping Fee: It was noted that if the City Council has decided to increase City park camping permit fees, the fees should be used to provide security, and renovate the restroom facilities, including making more park areas ADA compliant.
7. Garbage Collection Fee: LeFebvre clarified for a community member that the cost of $50 per month includes wages, equipment, gas, storage and other incurred costs associated with garbage pick-up. The total cost to the City amounts to millions of dollars per year.
8. Homeless Displacement: Community member Robert Fread noted opposition to Mayor Caldwell's initiative for compassionate displacement, wherein camps of homeless individuals are raided in the middle of the night by armed men and forced to move to a different location, and stated that the displacements are not compassionate. LeFebvre noted that the displacements most commonly occur during the day, and a social worker addresses each homeless individual personally before the displacement occurs. LeFebvre added that the Mayor's main initiative for the City's homeless population is for housing first, and that steps are taken to make the displacements as compassionate as possible.

Council Chair Ernie Martin – Mike Sakata reported the following:

- Budget: The City budget was released in January 2014.
- Capital Improvement Projects (CIP): Council Chair Martin is asking each Neighborhood Board in his district for three (3) CIP ideas which are important to the community.
- New Website: Council Chair Martin has a new website.
- Hauula Civic Center: The Hauula Civic Center would be a good project for the CIP process, and might be an option for the three (3) suggestions from the Koolauloa Board.
- Kamehameha Highway Repaving: Kamehameha Highway from Haiku Road to the Hygienic Store was on schedule for repaving and had gone to bid, but the Board of Water Supply (BWS) has a piping project which would go through the area, and would take about one (1) year.

used for the appropriate projects, and to be able to track the funding. Sakata noted that there are better systems for tracking spending, such as monthly allotments, and funding approval.

Questions, comments, and concerns followed:

1. Resolution 14-20: Mattoon asked that Sakata follow up on Resolution 14-20 regarding a proposed amendment on land use ordinance for dwelling on certain preservation lands. Sakata noted that the status of any bill or resolution can be checked online on the City's website.
2. Bill 47: Bill 47 regarding Envision Laie is currently still in the Council's Zoning Committee.
3. Grant Funding: Chair Moore asked that Sakata inquire to see if the method for release of funding could be changed. Chair Moore added that there is an issue with the City approving a proposed grant, but then not releasing the funding citing concerns about what the funds would be used for. Sakata noted that there may be an issue on the administration's side for releasing grant funding. Sakata will follow-up.
4. Restroom Accessibility: A community member asked to add restroom accessibility at Kokololio District Park to the CIP list. It was added that all Koolauloa area City parks should be included.
5. Treatment of Poor: Community member James noted that Honolulu has been rated as a city which does note treat its poor residents well. Community member James added that Mayor Caldwell should work to be more compassionate to the poor.
6. CIP Priorities: Sakata clarified for a community member that not all councilmembers are reaching out to their Neighborhood Boards for CIP ideas, and that any ideas could be relayed to Council Chair Martin through Sakata, or by email.

Kerry Moea`i arrived at 7:09 p.m. **Eight (8) members present.**

Hearing no opposition, Chair Moore allowed Moea`i to provide his Parks and Recreation Committee report.

Parks and Recreation: Kerry Moea`i reported the following:

- Meeting with DPR: Moea`i attended a meeting with Director of DPR, Mike Formby, and raised community issues including Labor Day parking, and park camping fee increases.
- Labor Day Parking: Moea`i reported that the closure of the parking lot in Hauula on Labor Day was done by request from the Hauula Community Association due to issues with drug use and loitering. Another request would have to be submitted by the Board in order to have the parking re-opened on Labor Day, and further research would need to be submitted. The proposal to have the parking open through the summer months was not immediately supported due to feasibility.
- Camping Fee Increase: The fee was increased due to rising costs of park maintenance. The fee is broken down by person.

Questions, comments, and concerns followed:

1. Summer Months: Moea`i will follow up regarding the community request for Labor Day parking.
2. Camping Fee: A community member asked how the number of campers at a campsite would be enforced.
3. Wedding Permits: Fonoimoana noted that permitting is also required for weddings held in any City park.
4. Fee Increase Timing: A community member noted that the timing for camping fee increases was poor.
5. Fee Breakdown: A community member requested a breakdown of what the new camping fees will be used to pay, such as maintenance worker wages, septic system improvements, and ADA compliance.

Meeting Location Change: Chair Moore explained that due to audience size, the Koolauloa Board should move to the Hauula Elementary School cafeteria for its meetings. **The motion to move the Koolauloa Board meetings from the Hauula Community Center to the Hauula Elementary cafeteria was adopted by UNANIMOUS CONSENT**, 8-0-0; (**AYE**: Fonoimoana, Mattoon, Miller, Moea`i, Moore, Nihipali, Taala, and Thompson.)

PRESENTATION:

Champlin Wind: Mike Cutberth, manager of the Champlin Wind project introduced himself and explained the wind turbine company's history and involvement in 12 different wind projects over the last 18 years. The Kahuku location was selected

Print

Koolauloa Neighborhood Board No. 28

Printable Version (copy and paste into browser)
http://www.honolulu.gov/rep/site/nco/nb28/14/28201402ag.pdf

REGULAR MEETING AGENDA
THURSDAY FEBRUARY 13, 2014
HAU'ULA COMMUNITY CENTER
54-010 KUKUNA ROAD
6:00 P.M. to 8:00 P.M.

ANYONE WISHING TO SPEAK MUST FIRST BE RECOGNIZED BY THE CHAIR. EACH SPEAKER WILL BE ALLOWED 2 MINUTES – THE TIME LIMIT WILL BE ENFORCED. IN ACCORDANCE WITH SUNSHINE LAW AND ROBERT'S RULES OF ORDER, THE CHAIR, IN THE INTEREST OF MEETING EFFICIENCY, MAY LIMIT THE NUMBER OF TIMES A PERSON MAY SPEAK ON ANY ONE AGENDA ITEM. THE BOARD ALSO PRACTICES CIVIL DISCOURSE AND SPEAKERS WHO STRAY FROM CIVILITY WILL BE CALLED OUT OF ORDER.

I. **CALL TO ORDER** – Chair Verla Moore

II. **HONOLULU FIRE DEPARTMENT (HFD)**

III. **HONOLULU POLICE DEPARTMENT (HPD)**

IV. **APPROVAL OF NOVEMBER 14, 2013 AND JANUARY 9, 2014 REGULAR MEETING MINUTES**

V. **TREASURER'S REPORT** – Larry Nihipali

VI. **COMMITTEE REPORTS**

A. CIP/Public Works – Larry Nihipali
B. Cultural Affairs – Kela Miller
C. Education – Kela Miller (for Lolofie)
D. Health/Human Services – Creighton Mattoon
E. Parks & Recreation – Kerry Moeai
F. Planning & Land Use – Tani Thompson
G. Disaster Preparedness/Transportation – Burt Greene
H. Water – Dee Dee Letts

VII. **COMMUNITY REPORTS**

A. Kahuku
B. La`ie
C. Hau`ula
D. Punalu`u
E. Kahana
F. Ka`a`awa

VIII. **GOVERNMENT REPORTS** (Five (5) Minute Limit per Speaker)

A. Mayor Kirk Caldwell's Representative – Adam LeFebvre
B. Council Chair Ernie Martin and/or Representative – Chair Martin or Mike Sakata

2016 AUG 15 PM 2 09
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A. Board Approval to Move Meeting Site to Hau`ula Elementary Cafeteria
B. Presentation by Champlin Wind Seeking Board Support for Na Pua Makani (Wind Energy) Project in Kahuku – Mike Cutbirth

X. PUBLIC INPUT/COMMUNITY ANNOUNCEMENTS (Two (2) Minute Limit per Speaker)

XI. BOARD ANNOUNCEMENTS

A. Next Meeting scheduled for Thursday, March 13, 2014 at 6:00 p.m. at the Hau`ula Community Center (pending item IX A.), 54-010 Kukuna Road.
B. `Olelo Broadcasting – The regular Board meetings air on the 4th Friday at 9:00 p.m. on Channel 49, and on the 2nd and 4th Sunday at 12:00 noon on Channel 54.

XII. ADJOURNMENT

Any disabled person requiring accommodations to participate at this meeting may call the Neighborhood Commission Office at 768-3710 for assistance.

Board Agenda and Minutes Are Available on the Web At www.honolulu.gov/nco/nb28

2013-2015 Ko`olauloa Neighborhood Board Members:

Verla Moore, Chair – (Housing Committee)
Burt Greene, Vice Chair – (Disaster Preparedness/Transportation Committee)
Kela Miller, Secretary – (Cultural Affairs Committee)
Larry Nihipali, Treasurer – (Capital Improvement Projects Committee)
Kent Fonoimoana – (Agriculture Committee)
Kerry Moeai – Parks & Recreation Committee)
Dee Dee Letts – (Water Committee)
Creighton Mattoon – (Health Committee)
Norman Thompson, III (Tani) – (Planning & Land Use Committee)
Gaylene Nikora Lolofie – (Education Committee)
Hans Taala – (Public Information Committee)

Last Updated: 03 February 2016

KOOLAULOA NEIGHBORHOOD BOARD NO. 28

c/o NEIGHBORHOOD COMMISSION • 530 SOUTH KING STREET ROOM 406 • HONOLULU, HAWAII, 96813
PHONE (808) 768-3710 • FAX (808) 768-3711 • INTERNET: http://www.honolulu.gov

August 14, 2016

City and County of Honolulu
Department of Planning and Permitting
Mr. George I. Atta, Director
Mr. Arthur D. Challacombe, Deputy Director

Re: ***Ko`olauloa Neighborhood Board***
Letter of Opposition
Proposed Na Pua Makani Wind Turbines in Kahuku

Honorable Director Atta and Deputy Director Challacombe:

On behalf of the Ko`olauloa Neighborhood Board #28, thank you for allowing me the opportunity to submit this letter of opposition to the Na Pua Makani Wind Project in Kahuku.

Citing adverse visual impacts, community opposition and other undesirable effects for residents, the Ko`olauloa Neighborhood Board voted 8-0-0 during a regular meeting on February 13, 2014, to oppose the Champlin Wind project.

For these reasons and others, we respectfully request that you withhold the required permits needed for this project to commence.

Regards,

Verla K. Moore
Chair, Ko`olauloa Neighborhood Board

2016 AUG 15 PM 2 09
DEPT OF PLANNING
AND PERMITTING
CITY & COUNTY OF HONOLULU

Communication From: Makani 'o Kahuku

To: Art Challacombe, Deputy Director, Department of Planning and Permitting, City and County of Honolulu

Hand Delivered: August 15, 2016 at 1:00 pm meeting

Aloha Honorable Director George Atta,

Makani Pono 'o Kahuku would like to petition the City and County of Honolulu to grant Makani 'o Pono the following considerations;

- Withhold the permits needed for Na Pua Makani Wind LLC until the below pleas are addressed and granted:
- The Department of Planning and Permitting has revisited the archaic and outdated City and County of Honolulu regulations with respect to buffer zones as applied to Industrial Wind Machines
- The Department of Planning and Permitting modifies the Conditional Use Permit from Minor to Major to include City Council hearings which by design allows impacted residents the opportunity to testify and participate in the process
- The Department of Planning and Permitting convene hearings regarding Industrial Wind Machines in the immediate area where Industrial Wind Machines are proposed to be installed

Thank you for your consideration on our humble request,

Charlotte Kamauoha – Cochairmen Makani Pono 'o Kahuku

Kent Fonoimoana – Cochairman Makani Pono 'o Kahuku

From: Kent Fonoimoana-TRIsland
Sent: Thursday, August 25, 2016 12:25 PM
To: DLNR.LD.DLNRLand
Cc: Charlotte Kamauoha; Ralph Makaiau; Larry Nihipali; Eloise Reed; Matt Mamizuka; Gordon Tilley; Larry Nihipali; Vasa Taualii
Subject: Na Pua Makani - testimony from Kahuku Community Association
Attachments: Combined Petitions with signatures and comments.pdf; Attorney meeting with DPP KCA Letter to DPP 10 X.pdf

Aloha Director Case,

As President of and on behalf of the Kahuku Community Association (KCA), please allow me to submit testimony on Na Pua Makani Wind LLC's proposal for Kahuku.

On Monday the 15th of August, I hand delivered documents to your office that I would like to be included in testimony regarding this proposal.

KCA remains in steadfast opposition to the Na Pua Makani project. Our position remains unchanged since the project's initial proposal in 2009 when Oahu Wind Power Partners LLC's developer Keith Avery first approached KCA.

As Kahuku's representative to the Ko'olauloa Neighborhood Board, I should also inform you that the Ko'olauloa Neighborhood voted 8 - 0 to oppose Na Pua Makani's proposal to add more turbines to the Kahuku area.

I am also Co-chair of a citizen action group that is actively opposing the Na Pua Makani project.

I respectfully submit our collective testimony in opposition to this project. Please consider carefully the impacts already being imparted on our community by the existing SunEdison facility. These impacts can only be mitigated by placing an appropriate distance between these industrial giants and living beings of every kind. To disregard the experience our community has garnered by direct exposure to these machines would be a disservice to those you serve.

Respectfully yours,

Kent Fonoimoana
President - Kahuku Community Association
Kahuku Sub District 01 Representative to the Ko'olauloa Neighborhood Board #28
Co-chair - Makani pono 'o Kahuu

change.org

Recipient: William Aila, David Ige, and Randy Iwase

Letter:

Greetings,

Stop the Champlin Wind Energy Project in Kahuku

Aloha,

Champlin Wind Energy is proposing a 45-90 megawatt wind turbine facility in Kahuku. This translates into 15-30 fifty story tall machines in addition to the 12 existing forty two story tall machines we already have. Portions of the project will be upwind and in very close proximity to Kahuku Schools and community. The existing 30 megawatt facility coupled with this new proposal will effectively surround Kahuku on three sides which is unacceptable and irresponsible siting policy.

We, the undersigned, strongly reject this project for the following reasons:

1- Health

There are independent studies that support the existence of adverse impacts on humans who live in close proximity to these machines. Sleeplessness or sleep deprivation caused by noise and vibration has had detrimental impacts on folks already living in close proximity to windmills. People across the nation and worldwide are suffering vertigo, headaches, irritability, and a host of other ailments that they attribute to large industrial windmills erected too close to their homes. The subsonic sound created is known as "Infra-sound" and is inaudible to most folks. The condition has been termed "Wind Turbine Syndrome" and is gaining credence as more and more folks are reporting ill effects.

Placing these machines upwind from our schools, hospital and community may impact the health and wellbeing of our children, elderly and common residents.

2- Safety

Current safety buffer zones between these machines and occupied structures are woefully inadequate and the City has acknowledged this dificiency. Placing 500' tall machines with moving parts 1200' upwind and in close proximity to Kahuku

schools and community creates an untenable safety hazard. It is not if, but when a major hurricane strikes Oahu, Kahuku residents will be unnecessarily endangered due to poor siting policy. These machines include three 150' blades at 300' diameter that are designed to be light and aerodynamic. Each of the three blades on a single turbine weigh in excess of 14,000 lbs. and could become windblown debris that would likely impact human life. To date, not one wind turbine worldwide has been subjected to an 'Iniki type event. To surround Kahuku community with these machines is unacceptable, irresponsible and may be a life altering disaster for some of us who live here.

3- Environmental Impact

There is a significant impact on avian and bat species. The EIS of the First Wind project as well as this proposal failed to address all avian species as the impacts on 'Iwa or Frigate bird was not studied. There is a robust colony of Wedge Tailed Shearwaters in close proximity to the proposed site. The FAA required flashing red night lights contribute to light pollution and reportedly attracts avian and bat species into the blades that are spinning at the rate of 150-180+ mph. Installation of these facilities often require the removal of surface vegetation as well as the installation of unpaved roads. This practice adds to flooding, topsoil loss as well as increases in "brown water" runoff that may impact our flood prone community and near shore waters.

4- Financial Impacts on the Community

Statistical studies show that wind farms placed in close proximity to residential homes has a detrimental impact on the value of private real property. Across the country, realtors have noted increased difficulty in selling homes that are near wind energy facilities. Also, it is more difficult to sell a home that is in close proximity to wind farms and many US municipalities now require the developer to place monies in an escrow account to cover losses suffered by private homeowners whose home values drop or can't be timely sold and if the homeowner choses to move away from wind farms due to adverse impacts.

Additionally, HECO has stated that Kahuku is at or beyond the saturation rate for renewable energy. The existing wind energy facility has usurped private consumer's options for photo-voltaic panel installation and the addition of another facility in Kahuku will more than likely severely limit or prevent private citizens options to utilize other renewables. According to HECO, should a homeowner desire to install PV, there may be a discriminatory fee involved for Kahuku consumers as well as other consumers who live near or downstream of a wind energy facility. Also, the power delivered fluctuates greatly and there is a detrimental impact on privately owned electrical devices of nearby consumers.

5- Epilogue

The State and Federal Government have initiated a policy to commit to renewable energy yet the vast majority of State and Federally owned buildings lack PV panels or any other renewable energy source. The federal government prohibits the installation of wind mills in close proximity to the Kahuku Army training facility as well as the James Campbell Bird Refuge. The health and welfare of our avian friends are very important and deserve protections. Kahuku residents deserve the same.

Kahuku community has done its share for Oahu and it's time for others to do the same. Oahu's rural communities to not want to bear the brunt of our island's energy needs.



Kahuku Community Association

P.O. Box 7 Kahuku, HI. 96731

To Whom It May Concern, Dated August 14, 2016

On Behalf of Kahuku Community Association (KCA) and as authorized by its Board of Directors on Friday August 12, 2016 online Special Session, as its Chairperson, I am writing to:
Convey again KCA ongoing petition, "Kahuku Community does not support any further building of Industrial Wind Turbines (IWTs) in Kahuku Sub District #01, Ko'olauloa, City & County of Honolulu"; (see attached)

KCA further supports, for past and future consideration of IWTs City & County of Honolulu with special consideration to residential zone and land zones abutting residential zone, with reference to group Makani Pono 'o Kahuku, "set back buffer zone for IRTs (10 X the height of individual IRT) inclusive to schools, medical, recreational or other similar people gathering place".

KCA further supports the results of a voice vote taken on February 13, 2014 in which Ko'olauloa Neighborhood Board vote of 8 - 0 in opposition to the Na Pua Makani Wind LLC's proposal specifically as reflected in the minutes. (See attached minutes as generated by the Neighborhood Commission Office, City & County of Honolulu).

KCA further supports a Ko'olauloa Neighborhood Board #28 Chairperson Moore's letter of opposition to Na Pua Makani LLC's project as well as a plea to withhold the required permits. (See attached)

Constituents of Kahuku Community Association and its Board of Directors, being the only community on the island of O'ahu having lived in the shadows of IRTs for over 2,200 solitary days and nights of penance, please hear our plea for physical/emotional relief.

Respectfully submitted,

Kent Fonoimoana

cc.

Honorable Mayor Caldwell, City & County of Honolulu
Council Chair Ernie Martin, City & County of Honolulu
George Atta, Department of Planning and Permitting, City & County of Honolulu
Chairperson Verla Moore, Ko'lauloa Neighborhood Board #28, City & County of Honolulu
Honorable Governor Ige, State of Hawaii
Chairperson Pane Meatoga, Laie Community Association, City & County of Honolulu
Director Suzanne Case, Department of Land & Natural Resources, State of Hawaii
Aaron Campbell, Malaekahana Hui West

PETITIONER MAKANI PONO ‘O KAHUKU'S

WRITTEN REQUEST FOR A CONTESTED CASE HEARING

EXHIBIT II

STATE OF HAWAII
BOARD OF LAND AND NATURAL RESOURCES

RECEIVED
2016 OCT 24 PM 12:53
DEPT. OF LAND & NATURAL RESOURCES
STATE OF HAWAII

PETITION FOR A CONTESTED CASE HEARING

OFFICIAL USE ONLY	
Case No.	**Date Received**
Board Action Date / Item No.	**Division/Office**

INSTRUCTIONS:

1. File (deliver, mail or fax) this form within ten (10) days of the Board Action Date to:

   Department of Land and Natural Resources
   Administrative Proceedings Office
   1151 Punchbowl Street, Room 130
   Honolulu, Hawaii 96813
   Phone: (808) 587-1496, Fax: (808) 587-0390

2. DLNR's contested case hearing rules are listed under Chapter 13-1, HAR, and can be obtained from the DLNR Administrative Proceedings Office or at its website (http://dlnr.hawaii.gov/forms/contested-case-form/). Please review these rules before filing a petition.

3. If you use the electronic version of this form, note that the boxes are expandable to fit in your statements. If you use the hardcopy form and need more space, you may attach additional sheets.

4. Pursuant to §13-1-30, HAR, a petition that involves a Conservation District Use Permit must be accompanied with a $100.00 non-refundable filing fee (payable to "DLNR") or a request for waiver of this fee. A waiver may be granted by the Chairperson based on a petitioner's financial hardship.

5. All materials, including this form, shall be submitted in **three (3)** photocopies.

A. PETITIONER (If there are multiple petitioners, use one form for each.)		
1. Name Makani Pono 'o Kahuku	**2. Contact Person** Kent Fonoimoana	
3. Address	**4. City** Laie	**5. State and ZIP** Hi 96762
6. Email	**7. Phone**	**8. Fax**

B. ATTORNEY (if represented)		
9. Attorney Name James H. Wright	**10. Firm Name** Law Office of James H. Wright	
11. Address 745 Fort St., Ste. 1925	**12. City** Honolulu	**13. State and ZIP** Hi 96813
14. Email	**15. Phone**	**16. Fax** (808) 523-1187

C. SUBJECT MATTER

17. Board Action Being Contested
– Issuance of Direct Lease to Na Pua Makani Power Partners, LLC, Lessee, for Wind Power Project Purposes; Kahuku-Malaekahana, Koolauloa, Oahu, TMK: (1) 5-6-008:006

18. Board Action Date	**19. Item No.**
October 14, 2016	12

20. Nature and Extent of Petitioner's Interest That May Be Affected by the Board Action
Health & safety of humans and flying animals. Negative impacts on environment, culturally significant sites, private real property values, community identity and individual/collective wellbeing.

21. Any Disagreement Petitioner May Have with an Application before the Board
The Kahuku Community is in overwhelmong opposition to the Na Pua Makani proposal.

22. Any Relief Petitioner Seeks or Deems Itself Entitled to
We seek a contested case hearing pursuant to HRS § 91-14.

23. How Petitioner's Participation in the Proceeding Would Serve the Public Interest
We are the public. As members of the public, we are invested in the Kahuku community and interested in issues that impact us.

24. Any Other Information That May Assist the Board in Determining Whether Petitioner Meets the Criteria to Be a Party under Section 13-1-31, HAR
See criteria at §13-1-31 HAR (b 1-3).

☐ Check this box if Petitioner is submitting supporting documents with this form.

☒ Check this box if Petitioner will submit additional supporting documents after filing this form.

Kent Fonoimoana — Petitioner or Representative (Print Name)

Signature

10/24/16 — Date

PETITIONER KAHUKU COMMUNITY ASSOCIATION'S

WRITTEN REQUEST FOR A CONTESTED CASE HEARING

EXHIBIT III

STATE OF HAWAII
BOARD OF LAND AND NATURAL RESOURCES

RECEIVED
2016 OCT 24 PM 12:53
DEPT. OF LAND & NATURAL RESOURCES
STATE OF HAWAII

PETITION FOR A CONTESTED CASE HEARING

OFFICIAL USE ONLY	
Case No.	**Date Received**
Board Action Date / Item No.	**Division/Office**

INSTRUCTIONS:

1. File (deliver, mail or fax) this form within ten (10) days of the Board Action Date to:

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   Administrative Proceedings Office
   1151 Punchbowl Street, Room 130
   Honolulu, Hawaii 96813
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5. All materials, including this form, shall be submitted in **three (3)** photocopies.

A. PETITIONER (If there are multiple petitioners, use one form for each.)		
1. Name KAHUKU COMMUNITY ASSOCIATION	**2. Contact Person** KENT FONOIMOANA	
3. Address PO BOX 007	**4. City** KAHUKU	**5. State and ZIP** 96731
6. Email	**7. Phone**	**8. Fax**

B. ATTORNEY (if represented)		
9. Attorney Name	**10. Firm Name**	
11. Address	**12. City**	**13. State and ZIP**
14. Email	**15. Phone**	**16. Fax**

C. SUBJECT MATTER	
17. Board Action Being Contested – Issuance of Direct Lease to Na Pua Makani Power Partners, LLC, Lessee, for Wind Power Project Purposes; Kahuku-Malaekahana, Koolauloa, Oahu, TMK: (1) 5-6-008:006	
18. Board Action Date October 14, 2016	**19. Item No.** 12
20. Nature and Extent of Petitioner's Interest That May Be Affected by the Board Action Health & safety of humans and flying animals. Negative impacts on environment, culturally significant sites, private real property values, community identity and individual/collective wellbeing.	
21. Any Disagreement Petitioner May Have with an Application before the Board *The Kahuku Community is in overwhelmong opposition to the Na Pua Makani proposal.*	
22. Any Relief Petitioner Seeks or Deems Itself Entitled to We seek a contested case hearing pursuant to HRS § 91-14.	
23. How Petitioner's Participation in the Proceeding Would Serve the Public Interest We are the public. As members of the public, we are invested in the Kahuku community and interested in issues that impact us.	
24. Any Other Information That May Assist the Board in Determining Whether Petitioner Meets the Criteria to Be a Party under Section 13-1-31, HAR See criteria at §13-1-31 HAR (b 1-3).	

☐ Check this box if Petitioner is submitting supporting documents with this form.

☒ Check this box if Petitioner will submit additional supporting documents after filing this form.

Kent Konoimoana — Petitioner or Representative (Print Name)

Kent — Signature

10/24/16 — Date