Volume 25, Number 4 October 2014

Environment Hawai'i
a monthly newsletter

Price: $5.00

Grid Unlock?

The number of ways to help the Hawaiian Electric utilities reliably and cost-effectively incorporate more renewable energy into their grids seems to be growing by the minute, as do the options for those wanting to leave the grid altogether.

But the exact path taken depends largely on what the state Public Utilities Commission decides regarding the utilities' own proposals. Already those have been criticized as delaying the integration of renewable sources into their grids and penalizing customers who already have photovoltaic systems.

Will the PUC let Hawaiian Electric continue to dominate Hawai'i's energy landscape or open the door to other alternatives?

At this point, it's anyone's guess.

IN THIS ISSUE

Hawaiian Electric Agrees With Public: It Must Move to a New Business Model

Even though Hawai'i is the nation's leader in solar power use per capita, no one here — not customers, not state legislators, and certainly not the solar industry — seems happy with the way the Hawaiian Electric companies have recently dealt with integrating renewable energy into their systems.

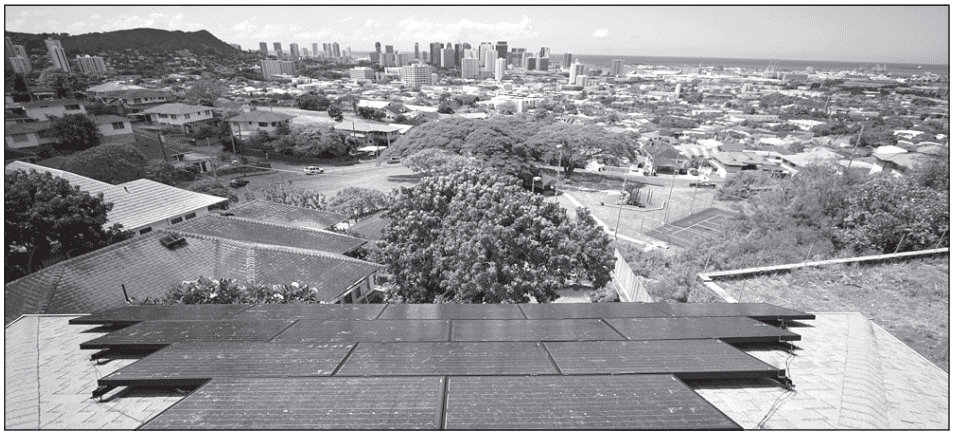

PHOTO: HAWAII STATE ENERGY OFFICE

Last year, the corporation placed restrictions on new solar photovoltaic (PV) installations that have left some 4,500 customers waiting for grid interconnection and also significantly reduced the rate of new installations. And in August, the company proposed roughly tripling its base rate, charging new PV customers $16 more, and paying net metering customers less for the power they feed back into the grid.

So it's no surprise that the state and the U.S. Department of Energy (DOE) have negotiated a new memorandum of understanding (MOU) to guide Hawai'i's transition to clean energy.

In 2008, the state and DOE signed an MOU establishing the Hawai'i Clean Energy Initiative (HCEI), which seeks by 2030 to meet 70 percent of the state's energy needs with clean energy (40 percent from renewable sources and 30 percent from conservation). But, according to state Public Utilities Commission chair Mina Morita, the HCEI's focus on lowering the cost of renewable energy projects has "perverted the market."

At the Asia Pacific Clean Energy Summit held last month at the Waikiki Convention Center, state and federal energy officials said the new MOU, signed on August 15, paves the way for "HCEI 2.0."

In attempting to describe the new approach, Morita said, "HCEI 1.0" dealt merely with integrating more renewable energy into the system. With HCEI 2.0, "we're seeking to transform the system, not only the electrical system, but also [the] utility business model," she said.

Whether or how the Hawaiian Electric companies' recently released Power Supply Improvement Plans (PSIP) and Distributed Generation Interconnection Plans (DGIP) mesh with HCEI 2.0 remains to be seen. The public comment period on those plans is set to close on October 6. There is a long list of parties who have petitioned to intervene in the PUC dockets for those plans, so it will likely be months before the PUC votes on the utilities' proposals.

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Environment Hawai'i

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NEW AND NOTEWORTHY

Menacing Miconia: In the wake of hurricane Iselle, all eyes have been focused on the substantial damages caused by falling albizia trees, with little attention paid to *Miconia calvescens*. Yet near Onomea, ground zero of the miconia infestation on the Big Island, landslides in areas heavily infested with miconia tend to bear out concerns that what happened in Tahiti, where entire mountain slopes were destabilized once shallow-rooted miconia had shaded out native vegetation, could happen here as well.

After Iselle, stretches of the old Mamalahoa Highway, known as the four-mile Scenic Drive through Onomea, were blocked by trunks and limbs of miconia and other non-native trees. Landslides on the mauka side of the highway extended up 20 feet and higher. Even where the road was not blocked, scarred earth could be seen, with the fallen trees having been blocked from the roadway by other trees close to the road.

In 2013, scientists at the University of Hawai'i were among several authors of a study that predicted just such an outcome. They reported that land under miconia stands is more vulnerable to erosion for several reasons, including the fact that the large leaves inhibit growth of understory plants, the leaves collect rainfall and cause it to hit the land in larger drops, and the leaves also decompose rapidly, leaving bare soil unprotected from runoff. (See the March 2013 article in *Environment Hawai'i,* "Study Links Miconia to Potential for High Erosion Rates in Hawai'i," for details.)

The area around Onomea is so infested with miconia, however, that the Big Island Invasive Species Committee "some time ago acknowledged that miconia was beyond our ability to control with the limited resources available," says Springer Kaye, director of the organization. When it comes to miconia, BIISC maintains a buffer at the northern end of the Hamakua Coast, "to try to keep it from reaching Kohala," Kaye says.

"Landslides are so common on the Hamakua Coast it *may* just be a coincidence that this one happened on a hillside in a neighborhood covered with miconia… I don't know of anyone tracking these slides," she added.

While BIISC is not managing miconia these days, she said, it has not been forgotten, with biocontrol efforts underway at the U.S. Department of Agriculture.

A post-Iselle landslide near Onomea in an area heavily infested with miconia.

Hu Honua Hit Again: The Hu Honua Bioenergy plant under construction north of Hilo is facing yet another lawsuit from a creditor. On August 1, Morbark, Inc., based in Michigan, filed a complaint in 3rd Circuit Court, alleging that it is owed $1,023,244.50 for two large wood chippers and related equipment. The lawsuit asks for payment of this amount, plus interest, attorneys' fees and costs, and other damages determined by the court.

The chippers were purchased in February 2013 for $1,844,270.88. Last December, Morbark, which was still owed nearly $1.3 million, accepted a financing plan calling for Hu Honua to pay $265,000 "within 10 business days after receiving net proceeds of a financing in the amount of at least $6,500,000," with the remainder due on or before June 30.

As a condition of the financing plan, Morbark had to accept a subordination agreement that made its lien junior to any liens of Hu Honua's parent company, Island Bioenergy, which was not only going to provide the $6.5 million loan referenced in the financing agreement, but also was expected to infuse Hu Honua with an additional loan of at least $40 million by the June 30 payment deadline.

In addition to the Morbark claim, nearly a dozen applications for mechanic's and materialman's liens totaling more than $50 million against Hu Honua were set to be heard on October 1. No hearing date has been set for yet another lien application, filed on July 23 by Safway Services.

Quote of the Month

"If I were a homeless person, I would want to have a carrot rather than just a stick."

— Chris Yuen, Land Board member

Environment Hawai'i
190 Keawe Street, Suite 29
Hilo, Hawai'i 96720

Patricia Tummons, *Editor*
Teresa Dawson, *Staff Writer*

Environment Hawai'i is published monthly by Environment Hawai'i, Inc., a 501(c)(3) non-profit corporation. Subscriptions are $65 individual; $100 non-profits, libraries; $130 corporate. Send subscription inquiries, address changes, and all other correspondence to *Environment Hawai'i,* 190 Keawe Street, Suite 29, Hilo, Hawai'i 96720.
Telephone: 808 934-0115. Toll-free: 877-934-0130.
E-mail:ptummons@gmail.com
Web page: http://www.environment-hawaii.org
Twitter: Envhawaii

Environment Hawai'i is available in microform through University Microfilms' Alternative Press collection (300 North Zeeb Road, Ann Arbor, Michigan 48106-1346).

Production: For Color Publishing

ISSN 1050-3285

A publication of Environment Hawai'i, Inc.

Hawai'i County Panel Refuses to Approve Change in Setbacks for 'Pepe'ekeo Palace'

No one saw it coming.

Not the Hawai'i County Planning Department, which had given its blessing to the 7,500-square-foot house being built by Scott Watson and his partner, mainland attorney Gary Olimpia, on the Pepe'ekeo coast a few miles north of Hilo.

Not Watson, who for years had been served with repeated notices of violations for infractions, large and small, associated with this and two other mansions he had built along the Hamakua Coast – violations settled with penalties that were virtually meaningless in light of the value of the construction.

And certainly not the members of the public who, on September 4, testified before the county's Windward Planning Commission. On that day, the commission was hearing a request by Watson and Olimpia to amend condition 11 of the Special Management Area use permit issued by the county Planning Commission a decade ago as part of the approval process for the subdivision that includes the lot they own. The application was to change the setback requirement. The existing SMA permit established a building setback of 40 feet from the shoreline as it was certified in 2002, and Watson and Olimpia wanted to change that to 40 feet from the shoreline survey they had had certified in 2010. The change would allow them to continue building the house on the site where foundation work had begun two years ago – but it also would have cleared the way for re-routing the public shoreline access easement away from the narrow slice of land between the lanai of the house and a cliff that marked the shoreline boundary in the 2002 survey.

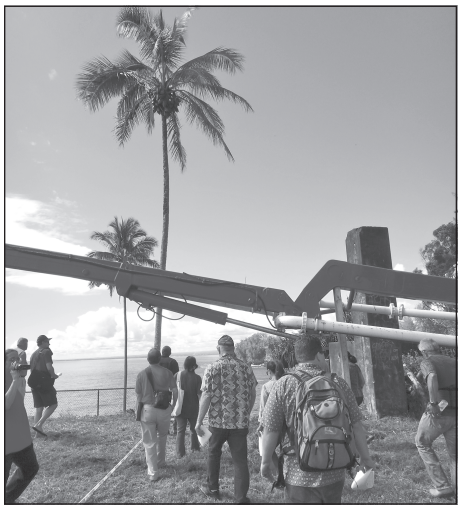
After receiving public testimony and hearing from Olimpia, Watson, and their attorney, Steve Strauss, commissioner Gregory Henkel made a motion to approve the application. Planning Department director Duane Kanuha stated that his office was taking no position on the application, so the commissioners had no departmental proposal before them to endorse or tweak. "The applicant has submitted language to amend the condition," Kanuha said. "In addition to that, the applicant has provided several other proposed amendments."

Henkel's motion received no second and the commission went into executive session. Back in open session, Henkel made another motion, this time to approve the amendment of the SMA permit "as outlined in Chris Yuen's memo, with findings and conditions to be worked out after by the planning director and applicant." Yuen, who was planning director when the original SMA permit was approved, had submitted language to the Planning Department that would have relocated the shoreline access and also allowed Watson and Olimpia to finish building the house as planned. Strauss, however, had indicated in his presentation to the commissioners that his clients wished to add to Yuen's language, making it unclear whether adoption of Yuen's proposed solution would satisfy Watson and Olimpia.

In any event, Henkel's motion received no second. After several moments of dead silence, commission chairman Myles Miyasato announced that the application was denied.

A Forgotten SMA

As *Environment Hawai'i* has reported over the last couple of years, Watson laid the foundation of the house, which he and Olimpia have named the Pepe'ekeo Palace, well inside the 40-foot setback from the top of the pali, or sea cliff, as it was located when the permit was approved. The Planning Department staffer who supervised Watson's project, April Surprenant, allowed him to place his house with no more than a 20-foot "sideyard" setback from the much more makai (seaward) shoreline established in the 2010 shoreline survey. Surprenant later said she had been unaware of the existence of the 2004 SMA permit at the time she approved the site plan for the house. (Even if the 2010 shoreline survey placed the seaward boundary of the lot closer to the sea than the 2002 survey referenced in the SMA permit, the 2002 survey still governs development: "No house or other substantial structure shall be built closer to the ocean than 40 feet from the top of the sea cliff . . . even if the shoreline is later certified at a location makai of the top of the cliff," the permit states.)



Members of the Hawai'i County Windward Planning Commission, staff, attorneys, and others visited the construction site of the "Pepe'ekeo Palace" last month.

As early as November 2012, Surprenant was questioned about the discrepancy between the SMA setback requirement and her approval of the much smaller sideyard setback. The then-director of the Planning Department, B.J. Leithead-Todd, received a letter from a member of the public in December that also mentioned the original SMA permit conditions that had been ignored by departmental approvals. In early March 2013, the applicants' attorney, Strauss, even appended a copy of the permit to an amended appeal he was making of a November 29, 2012 notice of violation. Yet a chronology of events related to Watson and Olimpia's application that was prepared by the Planning Department states that not until April 5, 2013, did the Planning Department send a letter to Watson and Olimpia "clarifying that SMA Permit No. 450 and its conditions were not considered in all previous approvals."

Both Watson and Olimpia testified that they had no knowledge of the 2004 SMA permit until receiving the Planning Department letter. Olimpia described his due diligence before purchasing the lot. "I went to the title company and spent two-thirds of a day going through the title report with the title officer. The next day, I spent two-thirds of the day at the Planning Department, and was provided with two and a half banker boxes worth of files for the subdivision.

"I went through the preliminary report, the title report, the CCRs. Nowhere is there any document referencing condition 11 of SMA 450. The first time we were aware of it was when the Planning Department sent a letter to myself and Scott referencing 450. I knew nothing about it before then."

Commissioner Charles Heaukulani, himself an attorney, seemed skeptical. "You were aware there was an SMA in play?" he asked.

"No," Olimpia replied. "Totally, completely unaware. We knew nothing about SMA 450, and neither did the Planning Department."

'End Access'

On the morning of September 8, members of the Windward Planning Commission toured the building site to obtain an idea of the lay of the land, the placement of the house founda-

tion, and the proposed as well as existing shoreline access easements.

After walking down the existing easement from the parking lot to a narrow strip fronting the house foundation, the commissioners were confronted with the word "E N D" spelled out in bright orange spray paint. This, Watson claimed, is a "pinch point," where the existing access comes to a halt, not allowing any legal access from that point down to the shore.

A little ways further down the slope, yet another bright orange line and the words "END ACCESS" had been spray-painted across the grassy ramp leading down to the landing once used by the Pepe'ekeo sugar mill and now a popular fishing and kayak-launch site. This line, Watson said, marked the end of the public shoreline access easement, with the land between the line and the water being his private property, unencumbered by any easement.

But his claims did not go unchallenged.

In July, Yuen sought to clarify the question of pinched-off access fronting the house site with surveyor Niels Christensen. In an email to Christensen, Yuen referenced a phone conversation he had had with Christensen the previous day. "I wanted to be absolutely sure that I had one thing correct…: that your survey team plotted the metes and bounds of the actual top of pali that lies a few feet makai [seaward] of Scott Watson's proposed house site, and comparing that top of pali with the metes and bounds of the mauka [inland] side of [the pedestrian easement]… they never cross and the easement is at least 7' wide if the actual top of pali is taken as the makai side of [the pedestrian easement]. In other words, [the easement] doesn't 'pinch' closed if the actual top of pali is the makai side of the easement."

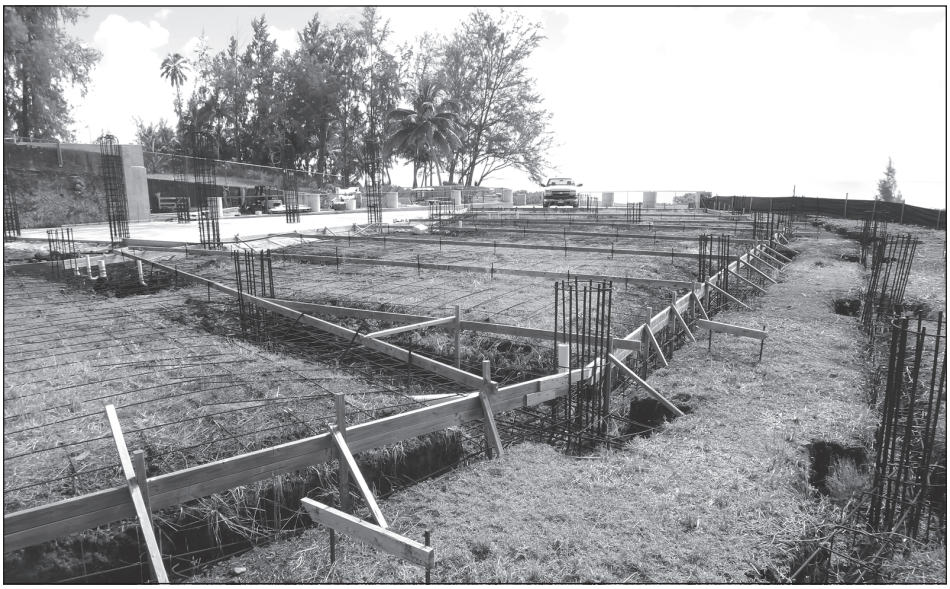
Christensen responded, "Yes, that is correct."

As to Watson's efforts to close public access to the water, his claim of ownership over the parcel that includes the ramp to the water is not undisputed. As an inducement to have the Windward Planning Commission approve the amendment to condition 11 of SMA 450, Strauss offered to have his clients grant the county a quitclaim to a "minimum 10-foot-wide pedestrian easement" over the parcel, which means only that Watson and Olimpia would not dispute public use of the area – not that they actually own it. Although Watson stated several times on September 4 that he had been informed that he purchased an "oceanfront" parcel, the metes-and-bounds description of the lot does not extend to the water's edge.

In his testimony, Yuen stated that ownership of the makai area "is quite complicated, and not something that the Planning Commission controls." Still, he suggested, "it would be good to have a formal easement from this applicant."

Following the meeting, *Environment Hawai'i* asked Strauss about what his clients might now do. "The potential loss of improved public access to the shoreline is troubling," he replied. "No decision has been made yet regarding next steps," he said, adding: "A motion for reconsideration" before the Windward Planning Commission "is also potentially available."

"I do believe that my clients are going to keep the temporary public access open while they sort out next steps," he concluded.



The line of rebar at the right of the photo marks the outer limit of the planned lanai area of the "Pepe'ekeo Palace." Without the public access route being changed, the lanai encroaches into the public access easement running in front of the house site.

♣♣♣

A Tiny Fine for a Helipad

A dozen miles up the coast, near the hamlet of Ninole, Watson and Laurie Robertson built what they called Waterfalling Estate. The property, which included what Watson called the largest private swimming pool in the world, was put on the market last year for $26.5 million. With no buyers nibbling at that bait, they decided earlier this year to sell the house, pool, tennis stadium, and manicured lawn (with several holes of golf) at auction, with no reserve.

When the auctioneer's gavel fell on March 22, the winning bid was $5.75 million, tendered by an older couple from Kansas City, Missouri. (They have since put the property back on the market for $10 million, stating that they wanted to be nearer to their grandchildren.)

Before the sale could go through, however, there was the matter of an outstanding zoning violation involving the helipad that Watson had built on top of the three-story house.

The Planning Department first notified Watson and Robertson that the helipad violated the county's zoning code on December 6, 2012, and imposed two fines – one of $500 for violating the zoning code, and another of $10,000 for violating the department's Special Management Area Rule 9. The homeowners were told to respond by a "deadline date" of January 9, 2013, or otherwise have penalties accruing at a rate of $100 a day for the first three months, $200 a day from the third to the sixth month, $300 a day from the sixth to ninth month, and $500 a day thereafter.

Neither Watson nor Robertson responded. On February 25, Planning Director B.J. Leithead-Todd wrote again. She informed them that accrued fines by that date came to $14,800 and reminded them of the escalating scale. Under the heading, "What happens if you don't pay the fines?" Leithead-Todd outlined a dire scenario: Under the Hawai'i County Code, she wrote, "fines assessed … shall constitute a lien upon the subject property upon filing of said lien with the Bureau of Conveyances."

She closed with a warning: "This matter may be referred to the Office of Corporation Counsel for civil remedy and/or the Prosecuting Attorney's Office for criminal prosecution."

Br'er Rabbit's Tar Baby had nothing on Watson and Robertson. So on May 6, 2013, Leithead-Todd again attempted to engage

them. "To date, your total fines due have accrued to $23,700," she wrote. "Resolution of this matter seems to be fairly simple," she went on to say, asking them to cease and desist from use of the helipad and provide a letter confirming that they have ceased such use. She even offered to reduce the fine to 10 percent of the amount due; "otherwise, after this date, the matter will be transferred … to Corporation Counsel for legal action." Leithead-Todd copied her letter to William Brilhante in the Office of Corporation Counsel.

Over the next several months, frequent checks in the files of the Planning Department showed no response from Watson or Robertson. In February of this year, *Environment Hawai'i* asked Brilhante if his office had commenced any action against Watson and Robertson.

Brilhante professed to know nothing about the violation. "Corporation Counsel does not handle issuance of specific Notice of Violations," he wrote. "That is usually done through the Planning Department. I will follow-up with the Planning Director to see where this matter stands." Brilhante promised to "get back to you as soon as possible," but never did.

In April, however, following the auction and while the house was in escrow, it suddenly became important to get the violation resolved. On April 10, Watson came into the Planning Department office with a check for $2,370 and a statement signed by him and Laurie Robertson: "In the future we will *not* use the rooftop at the subject property … as a heliport, with the exception of usage for public health, safety and welfare in the event of emergencies."

The payment baffled staffers, who had no knowledge of any negotiations between Brilhante and Watson. One planner emailed Brilhante to inquire what the payment represented. She was told it was a negotiated settlement that was based on 10 percent of the figure cited by Leithead-Todd in her last letter to Watson.

Steve Strauss, attorney for Watson in matters involving the Pepe'ekeo house, told *Environment Hawai'i* that the settlement of the helipad violation had nothing to do with the sale of the Ninole house, and that the fines had been paid before the house was sold.

Applying the county's schedule of escalating fines for violation of its rules, from the deadline date of January 9, 2013, to April 10, when Watson settled the violation, total accrued fines for the helipad would have exceeded $150,000.

A Withdrawn Request

The Ninole property is on two separate lots of record. The one nearer the belt highway (the more inland of the two) is just under 1.4 acres. The larger lot, which has the house, pool, and other amenities, is just over 8 acres. Most of the land is in the state Agricultural District, but a small part lies within the state Conservation District.

This old ramp leading from the Pepe'ekeo sugar mill landing up to the mill itself has been cleared and grassed by Scott Watson. He now is claiming this is private property, with public access allowed on his terms. The landing has been well used by nearby residents and other members of the public for years who want to fish or kayak from the landing.

In 2008, Robertson and Watson sought to have the county approve a parcel consolidation and resubdivision (PCR) – a process by which the boundaries of the lots are redrawn. The number of buildable lots remains the same, but the size of the lots can be adjusted. However, because any division of land within the Conservation District requires the approval of the state Board of Land and Natural Resources, a PCR involving lots with Conservation District lands is difficult. The 2008 effort resulted in the withdrawal of the application.

In February of this year, Watson and Robertson tried once more to effect a PCR on the two Ninole lots, just a month before Waterfalling Estate was to go on the auction block.

On March 11, Planning Director Duane Kanuha returned the application to the surveyor, Niels Christensen. Not only would the process require the owners to submit a Conservation District Use Permit to the Department of Land and Natural Resources, Kanuha wrote, but in addition, the parcels lie within the county Special Management Area and so an SMA Use Permit Assessment application (SMAA) would need to be filed with the county.

On top of all that, Kanuha wrote, "prior to our consideration of an SMAA application, the ongoing Zoning violation(s) must be resolved." ***— Patricia Tummons***

Editor's Note: Patricia Tummons testified at the Planning Commission hearing as a private citizen. Her testimony focused on Watson's history of violations.

For Further Reading

The following articles are available on the *Environment Hawai'i* website, www.environment-hawaii.org. Click on the "Browse Our Archives" link to be taken to the year and month of publication.

- "Shoreline Easement Lost as Builder Racks Up repeated SMA Violations," December 2012;
- "Builder Defies Planning Department With Helipad on 'Sod Farm' Dwelling," December 2012;
- "Hawai'i County Sends Violation Notices to Builder Over Construction at 2 Sites," January 2013;
- "Hawai'i County Is Challenged in Court Over Ability to Determine Coastal Setbacks," June 2013;
- "A Setback on Setback Dispute," Page Two item, October 2013;
- "Builder Seeks SMA Amendment to Allow Pepe'ekeo Palace to Be Built as Planned," July 2014.

BOARD TALK

Land Board Approves Controversial Lease For Temporary Homeless Facility at Sand Island

If the city is going to soon start shooing the homeless out of Waikiki anyway, what's the harm in giving them a place to go?

That seemed, in part, to be Board of Land and Natural Resources member Christopher Yuen's rationale for recommending approval of a City and County of Honolulu request for a right-of-entry permit and a three-year lease for a five-acre industrial lot at Sand Island, which it plans to use as a temporary homeless camp.

At its September 12 meeting, the Land Board approved his motion, 5-1, after receiving hours of testimony mostly against the proposal and discussing matters at length with its deputy attorney general behind closed doors.

Before making his motion, Yuen noted that a lot of the opposition seemed to stem from the city's pending ordinance (Bill 42) banning people from sitting or lying on the sidewalks of Waikiki. Opponents had criticized the Sand Island proposal as an ill-planned, insufficient attempt at offering a "carrot" to the homeless now that the city council has approved the sit-lie ordinance, e.g., the "stick."

"If I were a homeless person, I would want to have a carrot rather than just a stick," Yuen said, adding that the Sand Island camp will give people an option they otherwise wouldn't have.

In introducing the city's proposal, Peter Hirai, deputy director for the Department of Emergency Management, explained that the site will be a stable place — with water, electricity, toilets, showers, lockers, and cooling fans — where as many as 100 chronically homeless people may camp and receive referrals for appropriate housing.

The city plans to grade less than one acre of the site, which it will then cover in asphalt to create a more comfortable surface. Pets will be allowed; people convicted of a violent crime within the last two years or who are not legally in Hawai'i will not be, according to one city representative.

Hirai said the city plans to operate the site for only a year while it sets up its Housing First program. Housing First programs place homeless people straight from the streets or shelters into their own housing.

Within two years, the city would give the land back to the DLNR, Hirai said.

Ed Sniffen of Mayor Kirk Caldwell's office added that the city plans to have 100 units available under the program by the end of the fiscal year.

Opposition

Sniffen said the city had evaluated 25 sites across the island and the Sand Island lot best suited its needs. The site had later been harshly criticized during community meetings for being, among other things, potentially contaminated with hazardous chemicals and heavy metals. City officials, however, issued repeated assurances that if the site is determined to be dangerous, it won't be used.

Whether or not the Sand Island site is, indeed, the best place to set up a camp, "the alternative would be to do nothing," Sniffen told the Land Board. "I don't know that I'm willing to do that."

Kathryn Xian of the Pacific Alliance to Stop Slavery wasn't buying the city's arguments. She testified that the services the city will be offering at Sand Island already exist elsewhere and that instead of providing a safe place for the homeless, the city was putting them in danger. (According to Hirai, the site would have only one security guard in addition to a site manager.)

Putting drug addicts and the mentally ill together with families was "a lawsuit waiting to happen," Xian said.

Despite the city's plan to provide shuttle service to and from the site, Xian argued that the city was purposefully isolating the homeless.

"This is clearly a place to put them to forget about them. Out of sight, out of mind," she said.

When asked by Maui Land Board member Jimmy Gomes where she would put them, she had no answer but suggested that the city reveal the two dozen sites it had evaluated and rejected.

Bolstering Bill 42

In addition to expressing concern about the safety of the Sand Island site, Xian and others questioned whether the Sand Island project was really an integral component of the Housing First program or merely a hasty, practical and legal solution to problems that may arise once Caldwell signed and began to implement Bill 42.

Even Kaua'i Land Board member Tommy Oi seemed to think the city proposal was simply a reaction to being caught flat-footed.

"The City and County is passing laws that have consequences, not thinking about, 'Now what we goin' do with all these people?'" he said.

During a discussion, prompted by Hawai'i island Land Board member Stanley Roehrig, on the constitutionality of Bill 42, city deputy corporation counsel Don Kitaoka admitted that whether or not those displaced by sit-lie ordinances have a place to go is something courts consider when evaluating such laws.

Roherig didn't seem to like what that suggested.

"Is that part of the impetus for the Sand Island [facility]? … So you can pass muster with the court? Are you using us for that?" he asked.

Kitaoka demurred. "I'm a lawyer, not a policy maker. I can't answer your question," he said.

Other city representatives, however, were quick to reiterate that the Sand Island proposal is intended to accelerate the implementation of the Housing First program.

Conditional Approval

"I don't see how they're better off if we don't pass this," Yuen said after testimony had ended.

His motion to approve the city's request included conditions to address concerns he shared with many of the testifiers about adequate security, hazardous materials onsite, as well as its long-term use.

Upon his recommendation, the Land Board subjected the lease to the following conditions:

- The state Department of Health must first approve the site for the intended use;
- Any extension of the lease will not be exempt from the state's environmental review law;
- The city must provide adequate security;
- Prior to occupancy and quarterly thereafter, the city must provide the Land Board chair with a report on its progress in meeting the other conditions.

The board also added a condition, part of a new practice that has surfaced in recent months, regarding contested case hearing requests. In this case, several members of the public had orally requested a contested case

hearing. The Land Board made its approval subject to any decision resulting from a contested case hearing.

Xian, public process observer Dan Purcell, and *Disappeared News'* Larry Geller were among those who requested a contested case.

Land Board member Vernon Char was the sole opposing vote. Char said he'd rather defer the issuance of the lease until the city is better able to answer some of the questions that had been raised.

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Contested Case Hearing Approved For Kaua'i Transit Corridor Cases

A handful of owners of multi-million dollar homes in North Kauai are fighting the Department of Land and Natural Resources' determination that their shoreline vegetation illegally encroaches onto the public beach.

Last year, the DLNR's Office of Conservation and Coastal Lands issued 44 notices of violation to landowners in Wainiha and Ha'ena whose shoreline vegetation appeared to violate the state's 2013 beach transit corridor law. Under the law, the DLNR must require property owners to "ensure that beach transit corridors abutting their lands shall be kept passable and free from the landowner's human-induced, enhanced or unmaintained vegetation that interferes or encroaches in the beach transit corridors."

Under the OCCL's penalty guidelines, a landowner wouldn't be fined for a first offense and would only be required to remove the encroaching vegetation. The OCCL could impose a fine of $1,000 for a second violation and $2,000 for a third. Landowners receiving a fourth notice of violation would have their cases brought to the Board of Land and Natural Resources for disposition.

Of the landowners who received violation notices, four requested a contested case hearing. They include Stephen and Robin Sedgwick, the Chulack Family Trust, the Burmeister Family Trust — all from California — and Noel F. Gaige of New York. Except for the Chulack Trust's, all of the homes are vacation rentals.

At its September 12 meeting, the Land Board voted unanimously to grant their contested case hearing requests and authorized the chair to appoint a hearing officer.

— T.D.

Hawai'i Supreme Court Grants Request For a Hearing on Haleakala Master Plan

The Hawai'i Supreme Court agreed last month to hear arguments on whether the University of Hawai'i should have prepared a full environmental impact statement for its Haleakala High Altitude Observatory Site master plan — a plan the state Department of Land and Natural Resources determined years ago was a prerequisite to any further telescope construction, including the Advanced Technology Solar Telescope (ATST).

In November 2010, the university accepted a final environmental assessment (FEA) for the plan, determining that it would not have a significant effect on the environment. The non-profit group Kilakila 'O Haleakala, which seeks to preserve the mountain's cultural and natural resources, challenged the decision in circuit court two weeks later.

Despite the pending court challenge, the state Board of Land and Natural Resources approved the plan in December along with a Conservation District Use Permit (CDUP) for the ATST (since dubbed the Daniel K. Inouye Solar Telescope), which would be the first telescope constructed under the plan.

In the years that followed, Kilakila has pursued a number of lawsuits related to the development of the observatory site and the construction of the ATST, in particular. Its challenge to the 2010 CDUP resulted in the Hawai'i Supreme Court voiding the permit. Its subsequent challenge to a second CDUP, issued by the Land Board in 2012 following a contested hearing, is awaiting a decision by the Intermediate Court of Appeals.

In June, the ICA ruled on Kilakila's lawsuit against the master plan EA, finding in favor of the university.

In his request for a hearing before the Hawai'i Supreme Court, Native Hawaiian Legal Corporation attorney David Kimo Frankel, representing Kilakila, argued that the ICA had erred when it looked only at the administrative record regarding the university's preparation and acceptance of the EA.

"Confining review to an administrative record not only set a dangerous precedent for future [Hawai'i environmental review law] litigation, but also limited the [ICA's] analysis here — allowing it to ignore the significant impacts disclosed in the ATST FEIS," he wrote.

Under construction, as well as ongoing court review: The Daniel K. Inouye Solar Telescope, formerly known as the Advanced Technology Solar Telescope.

What's more, Frankel argued, the ICA ignored at least four procedural requirements of the state's environmental review law, Chapter 343 of Hawai'i Revised Statues. The law requires that 1) agencies must avoid improper segmentation, 2) an EA must provide sufficient information to determine whether anticipated impacts constitute a significant effect, 3) the agency must take a "hard look" at the information, and 4) all impacts of a project must be disclosed and assessed in an EA, he wrote.

Given those requirements, the university cannot conclude that the master plan would have no significant impact when it has already admitted that construction and operation of the ATST would result in major, adverse, short- and long-term direct impacts on traditional cultural resources, Frankel wrote.

"Although clothed in the rhetoric of conservation, the [master plan] is not a plan to simply conserve resources. The plan's primary purpose is to allow the ATST to be constructed. After all, the plan was not even prepared until DLNR informed the university that a [master plan] was necessary in order for the ATST to be approved," Frankel wrote.

He concluded, "Curiously, the [plan] prohibits new facilities from obscuring the observation function of existing facilities, but does not prohibit construction that impairs or obscures sight planes or views. It specifically calls for solar observatories to be painted white … even though the color white has even greater visual impacts. In other words, the resources the [plan] allegedly protects are not even an after-thought in a plan intended to foster more development of the summit."

(For more on this case, see "Maui Telescope Opponents Lose Appeal of Haleakala Management Plan Study," in our July 2014 issue, available at www.environment-hawaii.org.)

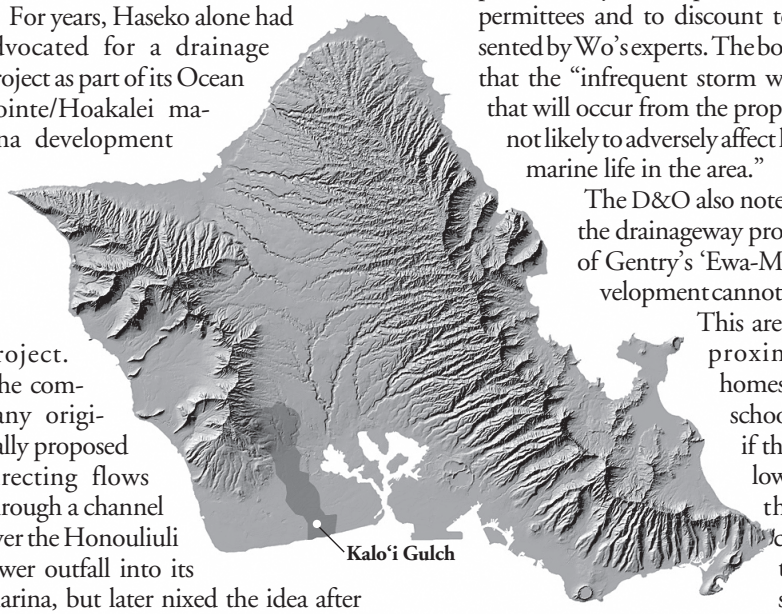
— T.D.

Fight Over 'Ewa Drainage Project Continues As Limu Gatherer Challenges It in Court

Noted Hawaiian cultural practitioner Uncle Henry Chang Wo, Jr., has taken his fight to protect the famed limu beds of 'Ewa from the effects of increased development to 1st Circuit Court.

On June 13, the Native Hawaiian Legal Corporation filed a notice of appeal on his behalf challenging the Board of Land and Natural Resources' issuance the very same day of a Conservation District Use Permit (CDUP) to Haseko ('Ewa) Inc., the University of Hawai'i, the Department of Hawaiian Home Lands, and the City and County of Honolulu's Department of Planning and Permitting that would allow them to alter a sand berm at One'ula Beach Park so that more upland runoff could reach the sea.

For years, Haseko alone had advocated for a drainage project as part of its Ocean Pointe/Hoakalei marina development project. The company originally proposed directing flows through a channel over the Honouliuli sewer outfall into its marina, but later nixed the idea after studies showed it would be difficult to maintain and to control adverse impacts. Haseko dropped the marina idea altogether and later, together with the various city and state agencies, proposed directing flows through One'ula Beach Park.



The permittees argue that their Kalo'i Gulch Drainageway project, which calls for lowering the 500-foot-wide berm a few feet, would meet 100-year storm flow requirements for the 7,500-acre watershed and allow them to develop lands currently occupied by or reserved for storm water retention/detention basins.

(Except for the 'Ewa Villages development, the city requires all property owners in the watershed to retain surface flows within their property boundaries until an ocean outlet is constructed, according to state records.)

The Land Board first granted the CDUP back in March 2012, despite arguments from Wo and Michael Kumukauoha Lee, also a cultural practitioner, that funneling more runoff onto the limu beds would harm their ability to engage in their traditional and customary Hawaiian practices. The Land Board later granted them both a contested case hearing, although Lee later withdrew.

The case, conducted in 2013 by hearing officer Lawrence Miike, explored the potential effects various levels of runoff would have on the marine environment fronting Kalo'i Gulch.

In its June Decision & Order, the Land Board seemed to heavily favor testimony presented by the expert witnesses for the permittees and to discount testimony presented by Wo's experts. The board concluded that the "infrequent storm water discharge that will occur from the proposed project is not likely to adversely affect limu and other marine life in the area."

The D&O also notes that without the drainageway project, "133 acres of Gentry's 'Ewa-Makai-West development cannot be completed. This area includes approximately 700 homes and a middle school." It adds that if the project is allowed to proceed, the DHHL could potentially build 72 single-family residences or 180 multi-family units on the 12 or so acres it will no longer need for surface water retention. What's more, it states, the city's 'Ewa Development Plan targets Kalo'i Gulch for extensive development.

In Wo's opening brief appealing the CDUP, NHLC attorneys David Kimo Frankel and Ashley Obrey argue that the Land Board should not have granted the CDUP because new evidence required the preparation of a supplemental environmental impact statement (SEIS) for the project, that the board improperly failed to accept some of Wo's documents into evidence, and that the permittees failed to provide any evidence that "eating the limu exposed to the polluted storm water would be safe to eat."

The new evidence that should necessitate an SEIS includes testimony indicating that endangered Hawaiian monk seals use the area, that pollution sources have increased, and that pollutant levels in the area "far exceed what is allowable in the ocean," as well as new data on pollutant levels within 100 meters of the shoreline, according to the brief.

Frankel and Obrey also point out procedural flaws: the Land Board had improperly granted the 2012 CDUP before conducting the contested case hearing. And by doing so, they argued, the 2014 CDUP was a "legal nullity because the BLNR's rules do not allow it to grant the same permit twice." (These two matters were resolved last month via a settlement agreement in which all parties agreed, among other things, that the 2012 CDUP is void.)

(For more on this, see our May and October 2012 Board Talk columns, available at www.environment-hawaii.org.)

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Frankel Doubts New Process For BLNR Contested Cases

There was once a time, not so long ago, when the Land Board would end testimony and stop discussion on an agenda item as soon as someone requested a contested case hearing. But over the years, that practice evolved into one in which the Land Board continues to deliberate on an item and takes action, despite a request for a contested case hearing, turning the case into something more like an appeal than a fact-finding exercise.

This "new" practice has long irked the NHLC's Frankel and others. In the Kalo'i Gulch contested case, Frankel argued that by granting the CDUP in 2012 before holding a contested case hearing, the Land Board "prejudged the issues in the case."

However, Frankel's recent success in getting the Hawai'i Supreme Court to void the CDUP granted in 2010 for the Advanced Technology Solar Telescope — despite requests for a contested case hearing from Kilakila 'O Haleakala — seems to have affected the Land Board's practices of late. Over the past few months, whenever someone requests a contested case hearing on an agenda item, the Land Board includes a condition in its approval noting that the decision is stayed pending the outcome of contested case proceedings.

But when asked whether this new practice is sufficient, Frankel replied, "No, no, no."

"They can't do that," he said.

Environment Hawai'i did not receive a response from the Department of the Attorney General by press time.

— Teresa Dawson

Energy from page 1

Given the discussions at the summit and the comments submitted on those plans so far, it's clear that Hawaiian Electric and the PUC don't lack for advice.

'Stabbed in the Back'

In its September 12 order soliciting public comment, the PUC asked specifically for comments that address whether the plans provide clear, realistic strategies to 1) lower and stabilize bills; 2) integrate a variety of cost-effective renewable energy projects; 3) operate grids in a reliable, cost-effective manner with large amounts of variable renewable energy sources; and 4) "contain appropriate strategies and timely action plans, supported by well-reasoned and compelling analyses, to achieve these goals on each island." (The Hawaiian Electric utilities serve the counties of Honolulu, Maui, and Hawai'i. Kaua'i is served by the Kaua'i Island Utility Cooperative, an independent co-op.)

> *"Before the company makes any new proposals to 'help out' ratepayers, it should look internally for answers."* ***— Boyd Sakai***

As of late September, however, the majority of the comments received by the PUC didn't really speak to those questions. They were instead mostly complaints from irate customers who had recently spent tens of thousands of dollars installing PV systems in an effort to lower their electricity bills. Several wrote that they felt betrayed, "stabbed in the back," by the proposal and that they would never have invested in PV had they known the utilities would seek to increase their bills anyway.

Those that have invested into expensive PV systems should not be penalized with an electrical bill "that was nearly identical to [what it was] prior to putting PV systems on our roofs," wrote Bryon Martin.

Some commenters offered specific tweaks to HECO's operations: it could transition to LNG, credit customers who limit their peak use, grandfather PV systems that have already been installed, or impose a range of surcharges depending on how many PV panels a customer had.

Others recommended a complete overhaul of the utility.

Boyd Sakai was one of them.

"Before the company makes any new proposals to 'help out' ratepayers, it should look internally for answers," Sakai wrote. He said the time had come for parent company Hawaiian Electric Industries (HEI), which owns both Hawaiian Electric Company and American Savings Bank, to let the utility branch "split off and become independent of HEI, thus removing a layer of management that is unnecessary and excessive. Executives and staff at HEI are some of the most highly compensated in the state. A stand-alone HECO will make its operations more transparent to the public and PUC."

"Maybe it's time to look at another model for HECO such as a cooperative model that Kaua'i operates under," he added.

Former Hawai'i attorney general Michael Lilly wrote, "All of HECO's plan is in the hope that 16 years from now, when many of us will have passed on, it MAY reduce the rates of all electrical customers. I don't believe them for one minute."

"Don't trust them," he told the commission.

'Center of the Universe'

In his summit keynote address, state Department of Business, Economic Development, and Tourism director Richard Lim offered a more dispassionate view.

He praised the utility for addressing distributed generation, setting bold goals (67 percent renewable energy by 2030), and planning for liquefied natural gas (LNG) peaking units that will allow more flexibility on the grid and increase renewable energy generation. However, he said the plans were "far from transformational" and that he found their plan to wait years before ramping up renewable integration puzzling.

"Hopefully they can refine that," he said.

In any case, "HECO is still at the center of the universe and they must take the lead," said Lim, who went onto describe what he thought the Hawaiian Electric Company (HECO), and its sister companies on Maui (MECO) and Hawai'i (HELCO) should do.

With the increase in distributed generation, the utilities must focus more on regulating inputs and away from generating base load, Lim said, adding that the transition will require substantial infrastructure improvements and also require the utility to rethink its business model and workforce.

Hawaiian Electric should become more technology oriented, decentralized, and proactive, he said, adding that that is a tall order for an industry that has changed little in the past 70 years.

Figuring out the role to be played by liquefied natural gas and community solar, and whether to impose standby charges on those who leave the grid are also challenges the utilities and the state need to address.

"Unfortunately, we don't have much time [to answer these questions]. The solar industry is in disarray," he said. The local solar industry, which Lim said accounted for 30 percent of all construction activity last year, significantly contracted after the utilities imposed restrictions on new installations.

Paradigm Shift

HECO senior vice president Jim Alberts attempted to explain his company's struggle with the rapid rise of PV. By the end of 2013, some 40,000 units had been installed and now, on many circuits, there is more generation than there is demand for power, he said.

"We're in uncharted waters," he said. And even with the restrictions that have been placed on new installations, the problem continues to grow.

Six months ago, 81 of HECO's circuits produced 120 percent of the daytime minimum load. As of last month, that number had grown to 101 circuits, according to Alberts.

"In the beginning PV was launched very effectively, but as PV has grown and become mainstream [it] requires some adjustments," he said. Those include transitioning from a centralized system to a distributed one and creating a multi-directional grid.

Alberts agreed with Lim that rather than being mainly a power generator, HECO needs to become more of a "services-based system."

During a panel discussion on the HCEI, HECO vice president for corporate planning and business development Shellee Kimura also acknowledged that the utility will be radically changing the way it operates.

HECO's goal of meeting 67 percent of its energy needs with renewables by 2030 will require 900 megawatts of distributed generation, Kimura said. That power will come from several plants, she said.

She expects that by 2030, the load for the three utilities will include about 13 percent wind energy, 18.5 percent customer-sited renewables, 16.5 percent biomass, and about 8 percent geothermal.

"LNG is going to be a significant game-changer in our transformation," she said. "LNG provides us with the cost savings that we can use to invest in our grid that will

Parker Ranch Chief Details Rationale For Regional Defection from HELCO Grid


Neil "Dutch" Kuyper

Last month, Neil "Dutch" Kuyper, president and CEO of Parker Ranch, laid out his argument why residents in the northwestern corner of Hawai'i island might want to defect from Hawai'i Electric Light Company's grid.

Simply put, a new energy portfolio that includes wind, liquefied natural gas, and pumped storage hydroelectric power would be worth hundreds of millions of dollars more than HELCO's assets in the Waimea-Kohala area, he said

According to analyses that Siemens and Booz Allen Hamilton have conducted for the ranch, the net present value of the new portfolio would be $600 million to $700 million, while HELCO's stranded assets in the area would be worth only $150 million to $200 million, Kuyper said during a panel at the Asia Pacific Clean Energy Summit in Honolulu.

With high electricity costs reportedly devouring much of the ranch's profit margin, it formed Paniolo Power, LLC, in early 2014 to explore ways to reduce electricity rates, taking a hard look at renewables.

"Renewables make increasing sense as oil prices rise," he said, adding that a 2013 Hawai'i Clean Energy Initiative analysis suggests that with prices in the $125-135 range, renewables have the potential to provide $12 billion in benefits.

By comparison, the assets of Hawaiian Electric Company, Maui Electric Company, and HELCO, total less than $4 billion, he noted. What's more, he said, HELCO's annual revenues over the last few years have ranged between $420 million and $480 million.

"It's stunning how much wealth and income gets extracted … because we have the highest rates," he said. HELCO's electricity rates are some of the highest in the nation.

So, he asked, is there a deal to be made with the utility now that the risk of irrelevance is rising? Given Hawai'i island's high rates, "it appears to be the most logical place for large-scale customer defection," he said.

Paniolo Power is considering various options, including establishing a micro-grid for the Waimea-Kohala area, which Kuyper said would be as large as that of the island of Kaua'i, but with half the population. The company is also looking at developing a "realistic and compelling alternative portfolio" to replace oil-fired generation, and/or an undersea cable to O'ahu "to levelize rates," he said.

> *"It's stunning how much wealth and income gets extracted …"* ***— Dutch Kuyper, Parker Ranch***

Paniolo Power has filed a motion to intervene in the Public Utility Commission's docket on the Hawaiian Electric Companies' Power Supply Improvement Plans. One question the company hopes to explore is whether utility-scale renewables on Maui and Hawai'i island can be cost-effective enough, given increases in distributed generation and liquefied natural gas use on O'ahu, to justify the cost of a cable, Kuyper said.

Last month, Paniolo Power issued a request for qualifications for a pumped storage hydroelectric system on Parker Ranch lands. The company is looking at a range of potential hydro-energy storage solutions, from 10 megawatts (MW) to as high as 200 MW, according to an August press release.

"The elevation change of 7,000 feet on Parker Ranch is a strategic asset," Kuyper said in the release. "If an undersea cable is possible for Maui, perhaps it's possible for Hawai'i island in the long run. And if that is the case, Parker Ranch could enable a large-scale storage solution as part of an integrated statewide grid."

Should Paniolo Power choose to become a full-blown utility, the Kaua'i Island Utility Cooperative could be a model. During the panel discussion, KIUC CEO David Bissell said that because the company is a co-op, it can acquire funding for renewable energy projects cheaper than any independent power producer.

"It's a no-brainer for the utility to do it," Bissell said.

"The cheaper cost of capital [available to co-ops] has an enormous, enormous advantage … that gets passed through to ratepayers. A co-op is a very intriguing model," Kuyper said.

Kaua'i Model

If he had to cite one advantage a co-op has over the Hawaiian Electric utilities, Bissell said, it would be that he doesn't have to worry about growing profits for shareholders. And without that pressure, KIUC has been able to aggressively pursue renewable energy and conservation projects.

More than 90 percent of its members have smart meters to help manage electricity usage. In addition, the utility has partnered with Green Energy Team, LLC, which will provide 7 megawatts of biofuel-generated electricity amounting to 13 percent of the island's load. It recently signed a 20-year agreement with Gay & Robinson, which will develop a hydroelectric plant that will meet another 5 percent of the load. And it's also invested in some major renewable projects of its own: a 12 megawatt solar array in Koloa, expected to go online next month, and another 12 MW array on Department of Hawaiian Home Lands in Anahola. After 25 years, the DHHL has the option to take over the Anahola project, he said.

KIUC plans to generate at least 50 percent of its electricity with renewables by 2023, he said.

"We'll be at 40 percent early next year," he said.

To help integrate large amounts of electricity from intermittent sources, KIUC is pursuing a pumped storage project on DHHL, Department of Land and Natural Resources, and Agribusiness Development Corporation lands in West Kaua'i. (See our story on page 11.)

"We're confident we can use PV to pump water cheaper than using fossil fuels," he said, adding that the company is also looking at battery storage (too expensive right now) and PV, LNG and/or biogas.

With these projects, KIUC hopes to lower the average member bill by 10 percent, maintain reliability, and be a leader in energy storage technology, he said.

— Teresa Dawson

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enable more renewables." One member of the public, however, disputed the benefits of LNG, noting that if LNG prices go up, it doesn't help lower costs, and if it goes down, it makes renewables less attractive.

In addition to integrating more renewable energy, Kimura said HECO is considering offering value-added products and services, such as those related to electric vehicles, distributed generation, demand response, community solar (an alternative to rooftop solar), and micro-grids.

— Teresa Dawson

KIUC Advisor Outlines Potential Impacts Of Pumped Storage Projects in West Kaua'i

This month, the Kaua'i Island Utility Cooperative is expected to begin license negotiations with the state Agribusiness Development Corporation for a 25-megawatt pumped storage hydroelectric project in West Kaua'i.

Pumped storage is one of several ways the utility hopes to deal with excess solar-generated electricity from the increasing number of residential photovoltaic systems on the island, according to a recent report by KIUC chief of operations Michael Yamane. At the ADC board's meeting in August, KIUC consultant Jason Hines, co-owner of Joule Group, LLC, provided an update on the utility's progress.

Earlier this year, the ADC issued KIUC a right-of-entry to access the agency's Kekaha lands and irrigation systems to conduct due diligence. According to Hines, the utility completed preliminary biological studies, assessed potential pipeline routes, and inspected the condition of the area's reservoirs, among other things.

The project would would be a closed loop system with a daily storage capacity of 250,000 kilowatt hours, and would simply shuffle a fixed amount of water around, rather than divert water from agriculture, he continued.

The utility is actually looking at two alternatives — "Pu'u Lua" and "Pu'u 'Opae." They would use the Koke'e ditch system and possibly portions of the Kekaha ditch system, he said, adding that both projects span lands controlled by the ADC, the state Department of Land and Natural Resources, and the Department of Hawaiian Home Lands.

With regard to the projects' agricultural benefits, Hines explained that they would actually provide more water for irrigation because the utility will be storing large amounts in reservoirs. In the case of the Pu'u 'Opae project, KIUC would likely use the ADC's Mana reservoir to store pumped water, he said.

For the Pu'u Lua project, the KIUC's plan is "a bit more involved," Hines said. There are two reservoir options: the KIUC could build a new, shallow one on the north end of the ADC's fields, or it could expand the ADC's existing reservoir at Polihale, he said.

The new reservoir, if built, would be located on land currently leased by the ADC to Syngenta, but not currently growing anything, Hines said.

"I want to stress we have not come up with any firm recommendation on what the best reservoir alternative is," he said.

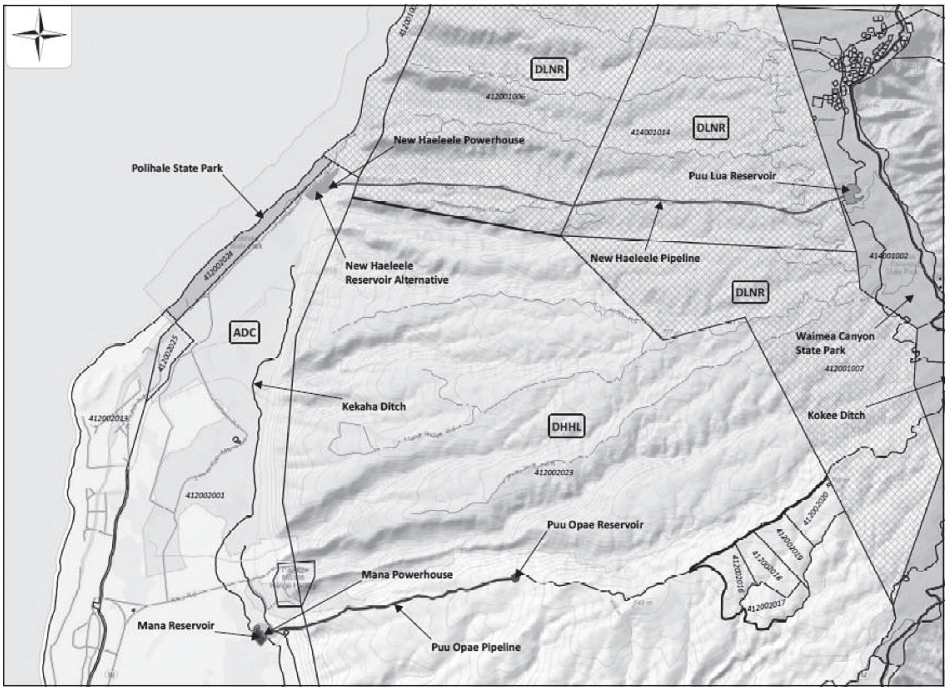
In any case, he said later that the projects would use KIUC capital to fix dams and portions of ditches "in a way that will extend their life and improve irrigation flexibility for the west side and take [some] of the safety and liability issues off ADC and [put] it on KIUC's shoulders."

He added that both projects have the potential to provide pressurized irrigation to ADC tenants.

At full capacity, the reservoirs could store 250 million gallons, 20-30 million of which would be used for pumped storage, leaving a large amount available for irrigation during dry periods, he said.

Joule's Dawn Huff explained that once they have clearer idea of the power house location and pipe alignment, KIUC will want to open a formal discussion on a land license.

"There is an initial investment being made here. Before heavy expenditures on engineering and geotech work, we would



MAP: KIUC

Kaua'i Island Utility Cooperative needs to reach land use agreements with the ADC, DLNR and the DHHL for its pumped storage hydro project.

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Many Mahalos to Our Many Supporters

Our annual dinner was a roaring success, and we want to thank all those who made the evening so memorable. Most of all, thanks to Dr. Sam 'Ohu Gon of The Nature Conservancy of Hawai'i, our guest speaker. We also want to thank Aaron Pacheco and the staff of the 'Imiloa Astronomy Center for their invaluable help.

Anonymous; Marjane Aalam; Doug and Deb Adams; Paul and Tanya Alston; Alika Anixt; Andrea Anixt; Antonia Barnhart and Far-Flung Agility; Big Island Candies; Kerry Burrell; Debbie Chang; Dora and Karl Chang; Pat Conant; Sheila Conant; Conservation Council for Hawai'i; Richard Cox; Shalan Crysdale;

Teresa Dawson; Julie Denslow; Heather Dewar; Patrick Donovan; Kay and Leo Drey; Linda Elliott; Mary Evanson; Mary Miho Finley; David Kimo Frankel; Suzanne Frayser; Kathleen Friday; Kathy Frost; Betsy Gagne; Carole Geballe; Bill Gilmartin; Haunani Gilpatrick; Una Greenaway; Juan Guerra;

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Rick Warshauer; Melody Ann Watral; Robert Weiss; Frank White Jr.; Puanani Woo; Alan Young; Leilehua Yuen; JoAnn Yukimura; Judith Zeichner; Marjorie Ziegler.

want a discussion on the land," she said. She added that the utility plans to seek an approval-in-concept of the project from the state Board of Land and Natural Resources soon and is still discussing the project with the DHHL.

Alan Smith, a member of the KIUC board and a former ADC board member, said the pumped storage project would allow nearly 70 percent of the island's electricity to come from renewable sources, "assuming this can come to fruition in a few years."

ADC board member and Kaua'i resident Sandi Kato-Klutke asked Hines how many acres of ADC land the projects would use.

Hines said that depended on the reservoir scheme and would range from about 20 to 25 acres. Smith pointed out that the ADC controls nearly 4,000 acres in the area.

Although Hines and Smith said the community reaction so far to the project has been largely favorable, Kato-Klutke said she wanted to see more local people at the community meetings that have been held.

"I really believe you should have more meetings out there. What is going to happen to that land [is it's] never gong to revert back to ag," she said.

Huff admitted that they've had problems with the large community meetings they've held and have found more success with small meetings with community leaders.

ADC board member Mary Alice Evans suggested that one way to give KIUC some of the assurance it needs to justify expenditures would be for the ADC board to grant an exclusive right to negotiate for a defined period. ***— T.D.***