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DEPARTMENT OF LAND AND NATURAL RESOURCES  
DIVISION OF WATER AND LAND DEVELOPMENT  
STATE OF HAWAII

In the Matter of: )  
Hawaii Administrative Rules )  
Title 13 Department of Land )  
and Natural Resources Sub- )  
Title 7 Water and Land ) Subchapter 1; Subchapter 2;  
Development Chapter 185 ) Subchapter 3  
Rules of Practice and )  
Procedure for Geothermal )  
and Cable System Development )  
Permitting )  
\_\_\_\_\_ )

TRANSCRIPT OF PROCEEDINGS

A public hearing was held at the University of Hawaii at Hilo Campus Center, Rooms 306 and 307, Kawili Street, Hilo, Hawaii, on Wednesday, June 21, 1989, commencing at 7:15 p.m. pursuant to Notice.

BEFORE:  
  
Andrea H. Vasconcellos,  
Notary Public, State of Hawaii

APPEARANCES:  
  
Dan Lum, Chairman  
Janet Swift, Staff Representative

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1           MR. CHAIRMAN: Good evening ladies and gentlemen.  
2           May I have your attention please. Good evening. My name is  
3           Dan Lum and I am a geologist with the Department of Land and  
4           Natural Resources.

5           This meeting tonight is being conducted by the  
6           Department of Land and Natural Resources and it is a formal  
7           public hearing to receive testimony on the Departments  
8           proposed Administrative Rules to implement Act 301 that was  
9           passed by the 1988 Legislature.

10          Tonight we are going to follow the testimony sign-in  
11          sheet and if there is anyone present who wishes to make  
12          testimony and has not signed the sheet, would you please come  
13          forward and do so now. Anybody that wants to testify tonight  
14          orally, and if you have written testimony you can present that  
15          orally also.

16          We will follow the order of speakers, we will follow  
17          this list of speakers that have signed in. We ask that you  
18          confine your testimony to the proposed Administrative Rules.  
19          We presume that all of you who are interested have seen these  
20          proposed Administrative Rules. We have additional copies  
21          here and those of you who would like one now can come forward  
22          to get them. We have a limited supply, we have a limited  
23          supply and we ask that you share if you will, if you can.

24          VOICE: Get two.

25          VOICE: They're going like hot cakes.

1 MR. CHAIRMAN: What?

2 VOICE: They're going like hot cakes.

3 MR. CHAIRMAN: Janet, can you lower the volume here, or  
4 retreating the squeal? We have 13 people, persons who have  
5 indicated that they would like to testify. We will take them  
6 in the order of the sign-in sheet with the exception of a  
7 Mr. Henry Ross, who we will call on first when we begin. He  
8 has asked for that opportunity.

9 We are constrained by a 11:00 p.m. deadline in securing  
10 this particular room. The University has indicated that we  
11 cannot stay beyond 11:00 p.m. So that in order to finish by  
12 that time, be sure we can finish by that time, we ask that you  
13 limit your testimony to 15 minutes. We have 13 to go through  
14 and that should perhaps be enough.

15 We ask you again to confine your testimony to the  
16 subject at hand. And the purpose of this public hearing,  
17 which is to receive testimony on the Administrative Rules  
18 to implement Act 301.

19 Act 301 passed by the Legislature in 1978 (sic)  
20 provides for a, Act 301 passed by the 1988 Legislature,  
21 provides for a consolidated permit process in which the  
22 Department of Land and Natural Resources can serve as the lead  
23 agency, coordinating, facilitating, and processing of  
24 geothermal projects among the involved state, county and  
25 federal governments through an inter-agency group.

1           The requirements of each individual agency that would  
2 be involved in a geothermal project, whatever it might be,  
3 drilling of a well, installation of a cable, would be lead by  
4 the Department of Land and Natural Resources in a attempt to  
5 expedite and facilitate the geothermal applicant through the  
6 maze of the different agencies involved.

7           The requirements of the individual agencies are not  
8 subrogated, are not taken away. But we as the Department of  
9 Land and Natural Resources would be the lead agency in  
10 facilitating such an application that might come before it  
11 through this inter-agency group is one mechanism.

12           As envisioned in Act 301 there is a review team of  
13 involved agencies. For example, if you're just drilling a  
14 well it wouldn't involve the Department of Transportation, for  
15 example. If it involved, the application involved a submarine  
16 cable then the Department of Transportation would be involved.

17           So depending on the application that is received the  
18 inter-agency group would form a review team. And the purpose  
19 of course is to expedite those involved agencies with that  
20 particular application.

21           Okay. There is an inter-agency group of all potential,  
22 potentially involved agencies that might be involved, but a  
23 particular application maybe very limited, such as, drilling  
24 a well. And the review team of those agencies that would be  
25 directly involved in that permit application would then be

1 smaller than the inter-agency group, and would presumably  
2 be able to expedite the application. But in no instance does  
3 it take away the permit requirements of the involved agencies.

4 Act 301 also provides for a Geothermal Permit Center  
5 to provide information, make available information and assist  
6 any applicant for a geothermal project. That Geothermal  
7 Center has been established. It is presently located in the  
8 Gold Bond Building, the Gold Bond Building, we can give you  
9 the address --

10 VOICE: Where is that?

11 VOICE: Please do.

12 MS. SWIFT: It's in Honolulu.

13 MR. CHAIRMAN: It's in Honolulu, it's in Honolulu.

14 VOICE: Why?

15 MR. CHAIRMAN: Yes, it is located in Honolulu. Please  
16 give us a call anytime. You can call the number collect if  
17 you have a question.

18 VOICE: What is the phone number?

19 MS. SWIFT: 548-7443

20 VOICE: Collect?

21 MR. CHAIRMAN: Yes, you may. Okay. And on my left is  
22 Janet Swift and she with the Geothermal Permit Center which is  
23 within the Department of Land and Natural Resources.

24 Contrary to what you might have read in the published  
25 Notices of this meeting you will have, anyone will have until

1 July 7th to submit additional written testimony to the  
2 Department, the Department of Land and Natural Resources. If  
3 you wish to mail you can address it to the: Department of  
4 Land and Natural Resources, Division of Water and Land  
5 Development, Post Office Box 373, Honolulu, and the Zip is,  
6 96809.

7 VOICE: Would you give that again, the address?

8 MR. CHAIRMAN: The address to submit additional written  
9 testimony would be: Department of Land and Natural Resources,  
10 Division of Water and Land Development, P.O. Box 373,  
11 Honolulu, Hawaii, 96809. Okay, without further ado we  
12 would like to begin with the testimonies. Okay, questions?

13 MR. ALULI: I just want more substance to these Rules,  
14 these Regulations. I think just hearing you facilitatious  
15 and expeditious is not enough. I just want you to talk a  
16 little bit more about the meaning of this Rule and step us  
17 through some case scenarios, for example.

18 What about things like the remedies, the so-called  
19 Administrative remedies that we have to question this  
20 development? What about your budget? I think we need to know  
21 more about these Rules than just be able to sit down and give  
22 testimony on them without understanding them a little bit  
23 better. I propose that we discuss it a little bit more.

24 MR. CHAIRMAN: Yes, okay.

25 VOICE: Hear, hear.

1 MR. CHAIRMAN: Tonight's hearing is a public hearing  
2 on the proposed Administrative Rules. The draft copy that you  
3 have seen here, and the purpose of these Rules is to implement  
4 Act 301 which was passed by this 1988 Legislature.

5 I've tried to describe to you, very briefly, what Act  
6 301 and these Administrative Rules which have been drafted to  
7 implement the provisions in Act 301 passed by th Legislature.  
8 And in a sentence, it is to provide the consolidated permit  
9 process whereby an applicant for a geothermal project can get  
10 help, get information, process the application, and get  
11 expeditious handling through the Department of Land and  
12 Natural Resources as the lead agency --

13 THE REPORTER: Wait, wait. (Indicating to member of  
14 audience that smells like hydrogen sulfide) You've go to move  
15 sir, because if I pass out, your testimony doesn't meaning  
16 anything. I understand your point --

17 VOICE: I have to move? I understand that to --

18 (Several people speaking at once.)

19 VOICE: -- but I have to live with this smell every  
20 single day. I'll move, I'll move, no problem.

21 THE REPORTER: Thank you.

22 VOICE: Will that be part of the public record --

23 THE REPORTER: If I can write it all down, I'll put --

24 VOICE: You put this on public record that you asked  
25 me to move right --



1 THE REPORTER: I will.

2 VOICE: -- now --

3 THE REPORTER: You bet. What's your name?

4 MR. LaPLANTE: My name's Michael LaPlante.

5 VOICE: I know we don't want you over here man.

6 VOICE: You can come sit by me Mike.

7 (Several people speaking at once.)

8 MR. CHAIRMAN: Okay, thank you. Let's get on, we would  
9 like to get on with the public hearing and we ask you  
10 forbearance, please, out of courtesy and respect to all the  
11 individuals who are going to testify just give them their time  
12 of 15 minutes, and please, try to minimize the disruption  
13 because we want your input --

14 VOICE: Oh sure, well, your stenographer or whatever,  
15 she just interrupted what you were saying to have him move and  
16 you never even asked --

17 THE REPORTER: That's okay. It' cool, just be  
18 cool and let's just take this thing.

19 VOICE: So, why don't we finish that and then we can --

20 MR. CHAIRMAN: Okay. As I was saying and was  
21 essentially concluding was that the Department of Land and  
22 Natural Resources serve as the lead agency for processing any  
23 application for geothermal development --

24 VOICE: Okay, I understood that, but you said that  
25 these other agencies have a say --

1 MR. CHAIRMAN: Yes --

2 VOICE: -- does your agency have the final say; is  
3 that what your saying?

4 MR. CHAIRMAN: No, we do not have the final say. We  
5 are like a coordinating lead agency. Each individual, each  
6 involved agency whether it be state, federal or county, their  
7 permit requirements are intact, you know, we do not affect  
8 that. All Act 301 is doing, or what Act 301 is primarily  
9 doing is to provide expeditious handling or processing of a  
10 geothermal application. Okay, is that clear? (No response)

11 That's the essence of Act 301 and the Rules are written  
12 to implement that Act. It doesn't change anything in essence.  
13 It doesn't create new requirements or anything like that --

14 VOICE: But does it by-pass permitting requirements to  
15 expedite it?

16 MR. CHAIRMAN: No, not in my interpretation of Act 301.  
17 It does not. Question? (Indicating)

18 VOICE: Section 13-185-3, Transfer of Functions. Are  
19 those decision making kinds of functions?

20 MR. CHAIRMAN: That is, that is correct. That is the  
21 DOT and that is in there, okay.

22 VOICE: So the decision making is transferred from the  
23 Land Use Commission, DOT, to the DLNR; do I understand you  
24 correctly?

25 MR. CHAIRMAN: As I interpret it now --

1 VOICE: No, I want to know how the Attorney General  
2 interprets it.

3 MR. CHAIRMAN: We haven't asked him for an  
4 interpretation --

5 VOICE: Why?

6 MR. CHAIRMAN: -- if it -- why? Because in the process  
7 of adopting Administrative Rules the process, one of the first  
8 processes is to have this public hearing to receive testimony  
9 from the public at large. We will then review it, we will  
10 give consideration, careful review of all testimony we receive  
11 and if there are questions of a legal nature, then Staff will,  
12 of course, prevail to give us an opinion if we see a problem  
13 that involves legal matters.

14 Okay. But tonight let us get on with receiving the  
15 testimony so all of you that have taken the time to prepare  
16 your testimony have an opportunity to get it on the record.  
17 Because essentially this is what --

18 VOICE: Did you really answer his question about --

19 MR. CHAIRMAN: I think I did, didn't I?

20 MR. ALULI: No. Maybe I've got to rephrase it.

21 MR. CHAIRMAN: Okay.

22 MR. ALULI: I'll try. I want to know whether there  
23 are any case scenarios. In other words, has this so-called  
24 authority been done before for any other development or  
25 project for the state or private developers? I mean, this

1 is a new rule as far as I can see. I want to know whether  
2 it's been done before. If it has been done before, what are  
3 the scenarios?

4 I also want to know how much you spent for this Center  
5 and the kind of work that is going to be assumed like DLNR. I  
6 think those kind of questions should be answered.

7 MR. CHAIRMAN: Yes. To answer your question on the  
8 budget, I do not have that. My position is a geologist and I  
9 do not have that, what it costs. In so far as your first  
10 question, could you repeat that? The first part, but not the  
11 budget part.

12 MR. ALULI: I just wanted to know --

13 VOICE: What the scenario was.

14 MR. ALULI: -- yeah, scenario.

15 MR. CHAIRMAN: Okay, the answer to that is "no" there  
16 has not been anything processed under the Act 301. We have to  
17 implement by adopting the Administrative Rules.

18 VOICE: Can the resorts and things like that use this?  
19 I see resorts by-passing everything and boom, popping up  
20 resorts all over or anything else.

21 MR. CHAIRMAN: I cannot answer that question, I'm  
22 not familiar with all the laws.

23 MR. ALULI: So, geothermal is going to be based on  
24 using this?

25 MR. CHAIRMAN: Yes, Act 301 --

1           MR. ALULI: And not spaceporting, and not manganese  
2 nodule mining and everything else?

3           MR. CHAIRMAN: Correct, it does not involve that.  
4 Act 301 does not involve spaceport, okay.

5           MR. ALULI: So this is a bad way to begin as far  
6 as all these inter-agencies work because what I fear is  
7 that the state is going to do the same thing to all the other  
8 developments on the Big Island. And that this Rule 301 or  
9 Act 301 is really a bad way to start in administrating those  
10 things. And that's the kind of scenario I want to see  
11 development discuss.

12           MR. CHAIRMAN: Yes. What we are here tonight to do is  
13 to implement the Rule. The Legislature has already spoken in,  
14 the 1988 Legislature has already passed Act 301 and we are  
15 simply trying to implement it. And I think I've answered your  
16 two questions. Okay, so if we may begin, I would like to call  
17 on the first person, Henry Ross.

18           MR. ROSS: Mr. Chairman. I would like to start and  
19 give you a little, little background of myself. Very little.  
20 I'm against this whole project, you can see that as a basis  
21 for my testimony.

22           I have to object to this public hearing, the way it is  
23 held. I think it is invalid. Chapter 91, HRS, requires that  
24 in the advertisement for the public hearing the substance  
25 should be given in sufficient measure, it isn't.

1           I didn't know what this was much about, what this was  
2           about until I got the Rules here, and I've been trying to read  
3           them in the 10 minutes that passed which, of course, is  
4           impossible. But it is mainly demonstrated by the questions  
5           that you have just answered and been posed to you. People  
6           don't understand. They say that they didn't know what this  
7           is all about, tell us, explain to us.

8           This explaining that you have just done should've been  
9           done in the newspaper three weeks ago when you started to  
10          publish the announcement for the public hearing. And this is  
11          a requirement under Chapter 91.

12          To get to the Rules, I think that this a perfect  
13          example of how to turn a good idea, I mean a good idea,  
14          geothermal energy use, into a bad project. A very bad  
15          project.

16          We have been going through this on this island for  
17          years now. It took a contested case hearing by Mr. Ono when  
18          he was the head of your department many, many months to  
19          finally come up with turning down the 200 megawatt request  
20          that was then on the table and limit it to 25 megawatts.

21          We have a two and a half megawatt thing in operation  
22          and it stinks, as was demonstrated. I can tell you that it  
23          does, I can agree with there. By the way, I live in North  
24          Kohala this whole thing doesn't touch me.

25          I think what should be done, and I don't do this as a

1 basis for what I'm going to say about the Rules, what should  
2 be done, now that the county is working or the state and  
3 county or whoever is working on the 25-megawatt plan, we  
4 should see how that works out before we start talking about  
5 500 megawatts.

6 VOICE: Yeah.

7 MR. ROSS: I would like to tell you the following; we  
8 get from Honolulu -- and the reason people object is that  
9 there are many people in the area that are affected, people  
10 object to having you office in Honolulu and not here where the  
11 project lies is that they want to have more say. I don't see  
12 the county behind the table here, anybody representing the  
13 county and I think that would be nice, at least.

14 VOICE: Yeah. It's rude they're not.

15 VOICE: They're invited.

16 MR. ROSS: Things may happen with the 25-megawatt  
17 development that turn us totally off on the 500 megawatt and  
18 there should be more time. Now, I'm saying that because these  
19 Rules, in these Rules that were drawn up in you department  
20 by your attorney you're trying to do it in less time, and we  
21 don't want it done in less time.

22 There's often talk about the "not in my backyard"  
23 syndrome. I want to tell you something, we, obviously, are  
24 Honolulu's backyard. This is being put in our front yard,  
25 and we, damn, don't want it in our front yard.

1           I don't see want advantage that it is for this island  
2 to have this project here with a monstrous cable along the  
3 Hamakua Coast along to Kawai before it goes into the ocean,  
4 and the next storm blows it down and all of Honolulu is out of  
5 power and so forth. I don't see any purpose in this whole  
6 thing.

7           I would like to tell you what I dislike, among other  
8 things in the Rules that I have tried to read a little, I'm  
9 referring to Pages 12 and 13 of the Rules that I have here.  
10 Under -- and I've only been going over a couple of  
11 paragraphs -- starting after the agencies enumeration that  
12 finishes with the Mayor of Honolulu.

13           Those paragraphs where it says state and county  
14 agencies and so forth and then Section 13-185-12 is what I  
15 read. I read in there, those two paragraphs at least 13 times  
16 the word "shall". You know what I thought, I mean, I didn't  
17 have time to read the rest it's proven with the word, shall,  
18 shall, shall, shall, we, damn it, are not a dictatorship.

19           You know, you could use -- and I know much about legal  
20 language, believe me -- you could use the word "may", and  
21 "will" and things like that, you know, but don't mandate every  
22 Goddamn, little thing what everybody "shall" do under your  
23 Rules. It's your Rules, you are mandating all these people to  
24 do certain things that you do not have the right to mandate.

25           You carry questions, you may invite them and so forth,



1 but don't forget, among other things, the the County of Hawaii  
2 is independent from the State in many matters that are touched  
3 here, many matters of committee and don't mandate anything.

4 VOICE: Right on.

5 VOICE: Yeah.

6 MR. ROSS: This is bad language. I would like to tell  
7 you that I want to see as much delay as possible, and I'm not  
8 alone believe me. You see, when we have more time there will  
9 be more opportunity to object to things and to think them over  
10 and to come up with better solutions and whatever.

11 Also, if we -- you see as indicated -- is basically the  
12 purpose, and that seems to be in the Act, is to streamline the  
13 permitting process. I would like to tell you something, there  
14 are some problems with that. You mentioned for instance, this  
15 is freely interpreted by myself, why bother the Department of  
16 Transportation if you are only drilling a well, as is  
17 generally done?

18 Well, I'll tell you, the Department of Transportation  
19 is the only one that can judge whether it should be consulted  
20 or not because in order to build a well, you have to transport  
21 heavy equipment down to the place to start the drilling, and  
22 that is where the DOT may have problems. So you cannot judge,  
23 the Department of Transportation can.

24 What happens normally in procedure like this,  
25 is that one agency does something, sends the proposal or

1 whatever it is under discussion to all the state agencies,  
2 county agencies, federal, whatever it involves and requests  
3 them to comment on it. Then when they have all the comments  
4 in, they make their decision. Then it comes to the next  
5 step, and they send their stuff to everybody around. You  
6 want to cut that short. I don't.

7 If the road to get there is longer the better are the  
8 chances that somebody will wake up to the abomination that we  
9 are facing. I also would like to say that I would like to see  
10 a normal process and more delay introduced here because of the  
11 fact, unfortunately, we have a Governor of very mediocre  
12 intelligence who is drumming things through. That's the way  
13 we see it here.

14 And I would like to wait for a new Governor to shine  
15 his lights on this, maybe we'll fair better. We have got  
16 to get far away from Honolulu, Mr. Chairman, and this has  
17 happened before not with geothermal maybe but with other  
18 things. Things are determined for us as if we were children.  
19 It reminds me of the old plantation days. The plantation  
20 thinks for you, you do it, shut-up, and so on, and that's the  
21 way we handle it.

22 This is going on in Honolulu. We are supposed to say  
23 "yes", "please", "thank you" for a space project, station, or  
24 whatever. We are supposed to be grateful if the state, you  
25 know, supports manganese nodule processing industry here on

1 this island. We have to be thankful for being the geothermal  
2 source for Honolulu, let me tell you something, if you drill a  
3 little deeper in Diamond Head you will have steam too. Why  
4 don't you start drilling Diamond Head first and if you come up  
5 empty, we'll think about it.

6 I'm saying these things, Mr. Chairman, because this is  
7 a very serious matter to us. And I think that Honolulu has to  
8 be shaken a little by us because we will be the ones to  
9 suffer.

10 I know that everything, you know, is a couple of years  
11 down the road, but if we don't start now to object to anything  
12 and everything that comes from Honolulu, like your Rules, then  
13 later it may be too late, you see, because it's done.

14 In talking about the phone, you know, I just heard that  
15 you can call us collect. That's very nice, but you see we are  
16 at back water here and I've complained of that very often.

17 You know, when you live in Honolulu, and I lived  
18 there for 20 years, and you live in Honolulu and you pick-  
19 up the phone and you call the Police Chief and you call the  
20 Mayor or you call the Governor or any department or whatever.  
21 When you live here you have to pay for those damn things.  
22 That's not equitable treatment, Mr. Chairman, and that's the  
23 way it has always been.

24 The only exception or one of the very few, I should be  
25 careful, is the Department of Energy which is the Division of

1 Energy and the Department of Planning in Honolulu that has a  
2 free telephone number. You don't. You say, "You can call us  
3 collect" other agencies don't. Other people in this county  
4 don't know that they can call you collect. We happen to know  
5 because you told us, thank you very much.

6 But other people who have thoughts and say, hey, I live  
7 in Pahala or in Kona and are not here tonight and they want to  
8 know something about it or in Honoka'a where they are going to  
9 get that cable all the houses and so forth, they don't know  
10 that they can call you collect. And people that I know that  
11 live here and so on, so it goes by the wayside.

12 I propose therefore that the inter-agency group be  
13 moved to this island so that we have more say. After all,  
14 this is our front yard.

15 VOICE: Yes.

16 VOICE: Hear, hear.

17 MR. ROSS: Mr. Chairman, there are many other people  
18 who no doubt want to say something too, I will limit myself,  
19 there will be other opportunities. I thank you very much for  
20 the opportunity and that's it for tonight.

21 MR. CHAIRMAN: Thank you very much, Mr. Ross. You were  
22 exactly on time, 15 minutes. I will give a three minute  
23 warning just so you will know that you have three minute left,  
24 and ask that you try your best to keep it within the 15  
25 minutes so that everyone that has signed up will have an

1 opportunity to speak. The next person that I would like to  
2 call on, the first sign-in person, John and I can't make out  
3 the last name, three letters, John, I can't make it out, 821  
4 West Kawailani Street.

5 MR. TAN: Here.

6 MR. CHAIRMAN: May I have your spelling?

7 MR. TAN: Tan. T-A-N.

8 MR. CHAIRMAN: Tan. Okay, thank you.

9 MR. TAN: Mr. Chairman, I was born and raised on this  
10 island. I do appreciate if they can make a geothermal plant  
11 pretty sound just like Portugal. A kahuna come over from  
12 Portugal, he went over that during his vacation time with a  
13 group, and he has said that down there they have made perfect  
14 plant for geothermal.

15 And the people have shown him that they can cook meals  
16 with the heat from the geothermal. Now, over here the boys  
17 before, some time ago, hunted with a bag which is round with a  
18 pig in there right inside the steam which is wrong because you  
19 are gonna have all the sulfur get inside into the pig. But  
20 they had done the right way, built like a caldron, you have  
21 the heat that goes around there, and you can do that because I  
22 work in the jelly factory before. And we used the steam to  
23 heat up and we make our jelly and jams and all that, the  
24 Hawaiian Packing Company.

25 But this geothermal, we need that because the

1 plantations have gone all down, but we wanted to make it  
2 safely. Not political now, this is what I'm going to tell  
3 you. This is what I'm coming up, not political, but to be  
4 self-supporting, self-sufficient on this island. Maybe  
5 Honolulu, maybe afterwards, but first we need the geothermal  
6 here and make it sound, environmental sound. Not like what  
7 they have today.  
8

9           Today what the University have done and what they have  
10 done out there is not right because I pass one time in the  
11 evening to go down Kalapana and I have to raise up my windows  
12 on my car. And they can do a better job. If Portugal can  
13 have and kahuna can tell me, I don't know why, but I receive  
14 messages without knowing but I receive it now that I know that  
15 they gives me, but somebody else come and give me the report.  
16

17           So this is what I want you folks to do. Hawaii needs  
18 geothermal, but have to be correctly made; otherwise, don't do  
19 it. We have a lot of gulches over here, we can put dams up  
20 and we can get perfect waterfalls.

21           It is not political. I do not want political here. My  
22 job in this world here, I got a big job but the money didn't  
23 come me so I had to wait. But the thing is to make all the  
24 world self-supporting, every nation self-sufficient, in other  
25 words, and get down and everybody get down on the penny,  
everybody have to work for their living. And no wars. I have

1 given down to Africa how to run Africa where they are having  
2 their problems. And this guy there, the Ambassador down to  
3 Africa he gave me a piece of paper to make a gift and I say  
4 okay, I'll give a gift to you, but it is not for my opinion.

5 But I'm going to get the Great One to give it to you.  
6 And I gave it up to him and he gave out the mail that I don't  
7 have to pay my stamp for some paid envelopes to go back to him,  
8 and he lives down in Virginia, in the United States.

9 So, this is what I'm telling you people here not to  
10 fight this and that because we are just like positive and  
11 negative and we are the elements in here. So if we don't  
12 function right, I bet you we will kapoot. Thank you. If  
13 we don't function right this whole thing will all fall down.  
14 This is all what I like to tell you.

15 MR. CHAIRMAN: Thank you very much, Mr. Tan. The next  
16 person that I would like to call on and receive testimony from  
17 is Ron Phillips from the Puna Community Council.

18 MR. PHILLIPS: Mr. Chairman. The Puna Community  
19 Council --

20 MR. CHAIRMAN: Could you just cup it? Yea.

21 MR. PHILLIPS: This way you can't hear me. The Puna  
22 Community Council has reviewed the Department of Land and  
23 Natural Resources proposed Administrative Rules for Act 301,  
24 formerly Senate Bill 3182, and finds the Rules do not reflect  
25 the intent of the State Legislature.

1           The Puna Community Council has provided extensive  
2 testimony during the Legislative process and assisted in  
3 shaping the final version of Senate Bill 3182. It is our  
4 conclusion that DLNR has misinterpreted the intent of the  
5 proposed Administrative Rules and if the Rules are implemented  
6 in their present form, will do more to damage geothermal  
7 development than to support it.

8           Once again, the community has had to engage legal  
9 services to provide an analysis for the state and to preserve  
10 the integrity of all affected parties. We are resolved to  
11 work with all necessary groups to ensure the development of  
12 geothermal, as an alternative energy source, is consistent  
13 with the protection of the environment and the community.

14           The Council therefore offers the attached analysis and  
15 I would like to read this from the attorney, Cynthia Thielen  
16 in Honolulu.

17           "On behalf of the Puna Community Council I am  
18 submitting comments on the proposed Rules of Practice and  
19 Procedure for Geothermal Cable System Development Permitting,  
20 hereinafter, Proposed Administrative Rules of the Department  
21 of Land and Natural Resources.

22           "The Proposed Administrative Rules are intended to  
23 implement the Geothermal and Cable System Development  
24 Permitting Act of 1988, Act 301, Session Laws of Hawaii 1988.  
25 DLNR cannot, through the proposed rules, confer upon itself



1 power and authority in excess of the Statutory authority set  
2 forth in the Act.

3 "Comments on the Proposed Administrative Rules follow  
4 the sequence of the Regulatory Provision and are not listed in  
5 any order of importance.

6 "Number A. Section 13-185-2 under Definitions. A  
7 definition for Intervenor should be included in this Section  
8 and should provide: Intervenor means a person or agency who  
9 can show a substantial interest in the matter.

10 "B. Section 13-185-3, Paragraph A, Transfer of  
11 Functions. One, the ability to intervene is severely  
12 restricted. The Proposed Administrative Rules provide that  
13 persons must demonstrate that they will be so directly and  
14 immediately affected by the proposed change that their  
15 interest in the proceeding is clearly distinguishable from  
16 that of the general public.

17 "This stringent standard would grant the DLNR power to  
18 deny admission to virtually any person. The existing  
19 Administrative Rules of state and county agencies do not  
20 contain such unwarranted restrictions.

21 "The language should be changed by replacing the above  
22 Section with the following: All other persons may apply for  
23 leave to intervene which shall be freely granted provided that  
24 the Department may deny an application to intervene when in  
25 the Department's discretion it appears that;

1           "One. The position of the applicant for intervention  
2 concerning the proposed change is substantially the same as  
3 the position of a party already admitted to the proceedings;  
4 and

5           "Two. The admission of additional parties will render  
6 the proceedings inefficient and unmanageable.

7           "See Section 15-5-52, Paragraph C, Hawaii Land Use  
8 Commission Rules, Chapter 15-15, HRS.

9           "In other words this revision would require that the  
10 position of Intervenor be substantially the same as existing  
11 parties and the admission of additional parties would make  
12 the proceedings unmanageable and ineffective.

13           "The test is conjunctive which protects the right of  
14 persons to freely intervene. See *Aku vs. Ohana Corporation*,  
15 65 Ha. 383, 386-390, 1982. And see *Expansive Standards*  
16 allowing various organizations standing to challenge agency  
17 action enunciated by the Hawaii Supreme Court in *Makueke vs.*  
18 *Planning Commission*, 65 Ha. 1, 7-8, 1982; *Life of the Land*  
19 *Incorporated vs. Land Use Commission*, 63 Ha. 166, 177-77,  
20 1981; *Life of the Land vs. Land Use Commission*, 61 Ha. 3,  
21 Sect. 1979; *Wainae Model Neighborhood Area Association vs.*  
22 *City and County*, 55 Ha. 40, 43-45, 12973E; *Diamond Head*  
23 *Association vs. Zoning Board*, 52 Ha. 518, 523-24, 1971".

24           She's gone to a great deal of trouble here,  
25 Mr. Chairman, to list the things that are clearly that DLNR

1 has over-stepped its authority.

2 "As presently drafted the Proposed Administrative Rules  
3 permit DLNR to deny leave to intervene to any member of the  
4 public in either instance. Yet the position is the same as  
5 an admitted party or if the addition of a party would make  
6 the proceedings inefficient and unmanageable.

7 "Although the petitioner would qualify for intervention  
8 the DLNR could deny the application if it decides the  
9 intervention could make the District Boundary Amendment  
10 proceedings inefficient and unmanageable.

11 "This rampant authority should be eliminated from the  
12 Proposed Administrative Rules as it conflicts with the  
13 liberal, judicial standard in proving standing for community  
14 organizations.

15 "Number Two. Appeal of Denial. A provision should be  
16 added providing for direct appeal in the event intervention is  
17 denied. The person whose application to intervene is denied  
18 may appeal such denial to the Circuit Court pursuant to  
19 Section 91-14, Hawaii Revised Statutes.

20 "C. Section 13-185-3, Paragraph B, Transfer of  
21 Functions. This Section of the Proposed Administrative Rules  
22 empowers DLNR to grant Special Use Permits within agricultural  
23 and rural districts. This is strictly a county function. See  
24 Section 205-6.

25 "Counties have jurisdiction over uses within

1 agricultural and rural districts involving land of less than  
2 15 acres. For land areas greater than 15 acres the County  
3 Planning Commission's decision is subject to the Land Use  
4 Commission's approval, approval with modifications, or a  
5 denial. Only this latter function of the LUC may be  
6 transferred to the DLNR." "Only this latter function of LUC  
7 can be transferred." Pardon me.

8 "Accordingly Section 13-185-3, Paragraph B should be  
9 redrafted to make it clear that DLNR is not usurping  
10 authority from the county". And she's got a note here  
11 "See the aft Sections 196D-9, and 196D-10, Paragraph A(1) of  
12 the Hawaii Revised Statutes.

13 "D. Section 185-13-4, Consolidated Permit Application  
14 and Review Process. This Section provides that the  
15 jurisdiction afforded any agency under the existing law is  
16 not affected or invalidated except to the extent that  
17 permitting functions have been transferred to the Department  
18 for the purposes of the project.

19 "Does this provision mean those functions only of  
20 Land Use Commission and Department of Transportation which  
21 are transferred by the Act? Section 186-D-10 (1) and (2)  
22 HRS or does the provision imply that permitting functions not  
23 authorized by the Act are to be transferred at the discretion  
24 of the agency? This unclarity could be eliminated by adding,  
25 "by the Act" after the word, "transferred".

1           "Section 13-185-5, Contest case provisions. One. If  
2 an agency is to issue permits sequentially, are all the permit  
3 applications required to be submitted at one time in order  
4 that that agency, county or state, can address all issues at a  
5 simple contested case proceeding?

6           "The first sentence of this Section should be reworded  
7 to clarify that the contested case would address all permit  
8 applications to be issued by the agency with reference to  
9 contested cases.

10          "Two. The second sentence providing for appeal from a  
11 Decision should include appeal from a Decision made by the  
12 agency pursuant to a contested case hearing.

13          "F. Section 13-185-6. Streamlining. The second  
14 sentence provides the department shall track the status of  
15 of permits of those agencies whose permitting functions are  
16 not transferred to the department for the purpose of  
17 consolidated permitting for geothermal and cable system  
18 development projects. It is unclear if this sentence means  
19 the purpose of DLNR permit tracking is to allow DLNR to  
20 consolidate permitting for geothermal and cable system  
21 development projects or if that provision only defines why  
22 certain permitting functions were transferred to DLNR.

23          "If it is the latter case, the words are superfluous  
24 and should be eliminated. If it is the former case, the  
25 Legislature did not grant this authority to DLNR.

1           "G. Section 13-185-14 the Conflict resolution process.  
2 The Act provides that a mechanism used to resolve conflicts  
3 shall be incorporated into the Consolidated Permit Application  
4 and Review process. Section 196-D-4, Paragraph B, sub-  
5 paragraph 5, Hawaii Revised Statutes; Section 13-185-14 of  
6 Proposed Administrative Rules sets forth conflict resolution  
7 process.

8           "In the event conflict between state and county  
9 agencies cannot be resolved the Proposed Administrative Rules  
10 provides in Section 13-185-14 (B) the Administrative Director  
11 or the Administrative Director's designee and the head of  
12 the Mayor's designated county agency or that agencies designee  
13 shall meet with the involved state and county department heads  
14 within 20 calendar days from the impasse declaration date.

15           "Should the impasse declaration still exist following  
16 the meeting the Administrative Director shall render a  
17 decision. The involved state and county departments shall  
18 initiate implementing the Administrative Directors decision  
19 within three calendar days from the day of the final decision.

20           "Where a county permitting authority is in conflict  
21 with a state agency for a permit application that section  
22 removes the county's jurisdiction over the permit. The state  
23 Administrative Director renders a decision and the county must  
24 implement the state decision forthwith. A similar provision  
25 applies to conflicts between state departments with the

1 Governor rendering the decision.

2 "This Section exceeds the Statutory authority in the  
3 Act, Section 196B-4, Paragraph B, sub-paragraph 5, HRS, this  
4 Section violates Section 196D-5 (c)(5) of the Act which states  
5 the Consolidated Permit Application Review process shall not  
6 affect or invalidate the jurisdiction or authority of any  
7 agency under existing law except to the extent the permitting  
8 functions of any agency are transferred by Section 196D-10 to  
9 the department for purposes of that project.

10 "See also Section 196D-9, HRS, construction of the Act  
11 ruled that the DLNR has the authority to make rules to  
12 implement the Act provided further that the Consolidated  
13 Permit Application and review process should not affect or  
14 invalidate the jurisdiction or authority of any agency under  
15 existing law.

16 "H. Section 13-185-15 Monitoring applicants'  
17 compliance with terms and conditions of permits. This Section  
18 of the Proposed Administrative Rules sets forth the scheme for  
19 monitoring and, if necessary, enforcing geothermal and cable  
20 systems development applicants compliance with permit terms  
21 and conditions.

22 "Article 11, Section 9 of the Constitution of the  
23 State of Hawaii gives the public standing to enforce through  
24 the courts laws relating to environmental quality which  
25 include conservation, protection, and enhancement of the

1 natural resources that control the pollution.

2 "Section 13-185-15 of DLNR's Proposed Administrative  
3 Rules must include a provision by which an organization or  
4 private party can sue for injunctive relief where the  
5 applicant is violating permit terms and conditions and DLNR is  
6 not enforcing compliance.

7 That is that and I thank you, Mr. Chairman for the  
8 opportunity.

9 MR. CHAIRMAN: The comments you have read will  
10 certainly be reviewed and will become a part of the record.

11 We're on track, and we have 11 more to go and if my  
12 calculations are correct we really have not time to spare.  
13 Are there any others, anyone else in the audience who wants to  
14 testify but did not sign up on the sheet? Would you come  
15 forward and write your name so that if we assign 15 minutes  
16 we won't have enough time.

17 So of you who can or have, those of you who have  
18 written testimony if you are going to submit it to us, it  
19 becomes a part of the record. So you may want to, in the  
20 interest of time, give an oral summation of your written  
21 testimony, but your full written testimony will be part of  
22 the record. I would like to remind you that you may submit  
23 additional written testimony --

24 VOICE: You've said that before, why don't you get on  
25 with the speakers.



1 MR. CHAIRMAN: Yes, yes. Okay, Fine. The next speaker  
2 would be Sullivan, Tim Sullivan.

3 MR. SULLIVAN: How-do-you-do. My name is Tim Sullivan.  
4 I'm a resident of Leilani Estates and --

5 MR. CHAIRMAN: Hold your hand over the, yeah, okay.

6 MR. SULLIVAN: I've got a big mouth I don't need this.

7 VOICE: Yeah.

8 MR. SULLIVAN: My name is Tim Sullivan, I'm a resident  
9 of Leilani Estates and I just wanted to say --

10 MR. CHAIRMAN: Could you cup the other one. Just hold  
11 it a little bit longer, you know, the big one. Okay.

12 MR. SULLIVAN: I've just got a couple of things.  
13 You've seen this world renowned publication (indicating) this  
14 is June 1989, so I think it quite pertinent to what we are  
15 speaking of right now.

16 They've got this -- the main article in here is "March  
17 Toward Extinction". I think your job in Land and Natural  
18 Resource should be on the forefront of "March Toward  
19 Extinction" when it comes to Hawaii, the people, and the  
20 different types of wildlife both birds, mammals, plants, any-  
21 thing that is in Hawaii.

22 "Tonight the states can look at Hawaii which most of  
23 us regard as paradise, but which biologist consider the  
24 endangered species capitol of the world. Though occupying  
25 less then two-tenths of one percent of the nations land mass,

1 Hawaii contains 27 percent of its endangered species and  
2 birds. Seventy-two percent of U.S. species that have already  
3 become extinct did so on these islands.

4 "I'm angry as I rest on a hike on the slope of the  
5 volcano Haleakala. In Hawaii pre-history I would have been  
6 sitting in a diverse forest rather than an over-grazed scrub  
7 land dominated by prickly plants that cattle won't eat.

8 "Almost nothing from the peacock that preened minutes  
9 earlier in front of my path to the cabbage butterfly that just  
10 now alighted on my arm is native. Is this island so, where  
11 only rats, and pigs, and cactus thrive, a microcosm of our  
12 future?

13 "Our questions fed by my field work arise, hasn't  
14 this happened before?" And what this part of the article was  
15 about was the different extinctions that have happened through  
16 time about every 26 million years over the past four billion  
17 has almost total extinctions occurred.

18 You know, much more than what I was always lead to  
19 believe as just one type of extinction of the dinosaurs.  
20 Dinosaurs is extinct and unextinct and come up and come  
21 extinct many, many times.

22 "Hasn't this happened before? Diversity suddenly  
23 becomes --" I don't know -- "And each didn't. Life recovered  
24 each time. New heights of evolutionary creativity" and the  
25 big picture, is this really so terrible? What is happening

1 today? Life will go on no matter how bad we make things. Some  
2 organisms will quote "survive and flourish". Isn't this the  
3 lesson of mass extinctions? What is the difference about this  
4 one? We are the difference. For the first time since life  
5 began on this earth 4 billion years ago a living organism can  
6 understand what is happening to this planet.

7 We can see the health of species inter-connected that  
8 we to, that if we too may disappear. And we will go also.  
9 For the first time living organisms can consciously do some-  
10 thing to halt mass extinction. Perhaps most important for  
11 the first time a living creature can gaze across the species  
12 of earth and say, "This is beautiful, I care, I will not let  
13 it go". Thank you.

14 MR. CHAIRMAN: Thank you, Mr. Sullivan. The next  
15 person I would like to call on is Jennifer Perry. Jennifer  
16 Perry.

17 MS. PERRY: My name is Jennifer Perry and I'm a  
18 resident of Kapoho. We live in a very unique and special  
19 place. Hawaii was the first of the 50 states to have a  
20 General Plan. It was prepared in response to the State  
21 Planning Act of 1957 and subsequently passed by the 1961  
22 State Legislature as the Land Use Law, whose intent is to  
23 protect agricultural lands and to promote the public  
24 welfare.

25 Provisions were made to allow for boundary changes

1 and special permit procedures which included the process of  
2 a first review at the County Planning Commission level and  
3 then a final review at the State Land Use Commission level.  
4 These provisions allow for public hearings and notification  
5 of adjacent residents and land owners within 300 feet of  
6 the property line.

7 In determining which parties may intervene in the  
8 hearing proceedings the Land Use Commission must allow all  
9 person who can show that they will be directly and immediately  
10 affected by change in a way that is clearly distinguishable  
11 from the general public. This could include adjoining  
12 residents and owners. Other person may petition to intervene  
13 and the Commission may turn down such a petition under certain  
14 criteria.

15 With regard to geothermal development we have new rules  
16 being proposed tonight which have flaws, especially regarding  
17 the passages relating to public notice and intervention.  
18 There is no special and crucial provision for notification  
19 to property owners and residents within a certain distance  
20 from the proposed geothermal development site.

21 Special permits, General Plan Amendments, and Boundary  
22 Amendments, require written notice to those 300 from the  
23 property line. Since geothermal development has been known to  
24 be so noxious and/or disruptive to neighboring areas as  
25 indicated by suits filed in Nevada against Yankee Caithness

1 Joint Venture and against Ormat Far West Geothermal, we need  
2 to review the 300-foot notification line to determine if that  
3 is adequate.

4 Further, under the proposed Rules the DLNR shall deny  
5 an application from any member of the public if it appears it  
6 is substantially the same as a position of a party already  
7 admitted to the proceedings or if admissions of additional  
8 parties will render the proceedings inefficient or  
9 unmanageable.

10 This appears, again, to be an attempt to keep the  
11 affected public from the decision making process. The Land  
12 Use Regulations, which this new Rule will replace, provides  
13 that the department "may" and not "shall" determine a denial,  
14 and certify that both reasons must be met with an "and"  
15 and not an "or".

16 There appears to be a grave neglect of public concern  
17 and input in these new Rules and I ask you to reconsider this  
18 proposal.

19 MR. CHAIRMAN: Thank you, Jennifer. Jim Blakey.

20 MR. BLAKEY: Yes, I just have a brief comment. It  
21 seems that the County of Hawaii has reached a bit more, has  
22 a bit more responsive government than we've known in recent  
23 times or in past times. And I'm particularly opposed to the  
24 Department of Land and Natural Resources taking a lead in  
25 things that affect us so dramatically.

1           The Department of Land and Natural Resources has a  
2 long history of impinging on the land and the people of this  
3 county. And I would just like to request that the county and  
4 the county agencies of Hawaii be allowed to participate with  
5 the citizens of this county to work for a cleaner approach  
6 that we have yet seen taken in geothermal development. Thank  
7 you very much.

8           MR. CHAIRMAN: Thank you, Mr. Blakey. Delan Perry.

9           MR. PERRY: My name is Delan Perry. I live and farm  
10 in the Kapoho Geothermal Subzone. I've read the proposed  
11 Chapter 185 to coordinate and streamline geothermal  
12 development. According to my dictionary streamline means  
13 quote:

14           "That shape of a solid body which is calculated to  
15 meet with the smallest amount of resistance in passing  
16 through the atmosphere."

17           In this case the atmosphere is the proper review of  
18 drilling, health, land use planning and community concerns.  
19 Geothermal development will not be facilitated except in the  
20 short term by accepting driller and developer programs with-  
21 out independent assessments of their claims.

22           In the long term streamlining that would result from  
23 these Rules will further remove the two agencies who now take  
24 the most careful and comprehensive look at these industrial  
25 uses. These are the County Planning Commission and the

1 affected community.

2 For good future planning with the least impact any  
3 project should have at least a one-year permit process, such  
4 as in California. The affected public must be involved at a  
5 very early stage and the permitting agencies should be  
6 contracting studies to assess the validity of the developers  
7 claims. That and land use conflict should not be left to the  
8 developers discretion.

9 Drilling regulations which must be upgraded to mitigate  
10 devastating problems, must be upgraded to mitigate devastating  
11 problems. The DLNR is not yet equipped to properly review even  
12 the drilling permits. Case in point is SOH permit which after  
13 approval by DLNR was withdrawn by the University when, after  
14 public input, they began to recognize the high level of danger  
15 their plan entailed by not casing down to a least 4,000 feet  
16 and proper anchoring at that depth. These Rules would also:

17 One. Destroy the concept of Land Use Zones usurping  
18 the county's authority to regulate appropriate development in  
19 agricultural districts, Page 185-6, and making geothermal  
20 development the primary land use regardless of pre-existing  
21 uses;

22 Two. Allowing for ignoring for any county conditions,  
23 Page 185-15, if the county consents to these Rules; and

24 Three. Freeze-out land owners and residents with  
25 legitimate rights from contesting the decision, Page 185-7.

1 I urge these Rules not be adopted as they will make  
2 careful, independent review far less likely. And in the long  
3 run can result in consequences no one will be able to live  
4 with.

5 I also urge the Department of Health and the counties  
6 to have no part in the Consolidated Permit Process. I believe  
7 these Rules go far beyond the Legislative mandate of Act 301.  
8 Streamlining geothermal permits will only hasten the mistakes  
9 that increased public input and agency reviews could catch.  
10 Thank you.

11 MR. CHAIRMAN: Thank you, Mr. Perry. Barbara Bell.  
12 Barbara Bell.

13 MS. BELL: Hello, I'm Barbara Bell, vice-president of  
14 Kapoho Community Association. I urge denial of these Rules  
15 of Practice and Procedure for Geothermal Cable System  
16 Development Permitting that will streamline the permitting  
17 process until several changes are made.

18 The process has 365 days, one full year not 180 for  
19 careful review and sufficient time for commentary from all  
20 agencies and the public;

21 There is a Environmental Compliance Officer or Board  
22 as a liaison between the state and the public. This position  
23 should be at least half funded by the geothermal industry;

24 The contested case provisions allow more than one  
25 hearing;



1           The Information Services Center has provisions for the  
2 community to receive information just as easily as permit  
3 applicants;

4           The Annual Report to the Governor shall be available  
5 to the community at no charge.

6           In closing I would like to add that I strongly object  
7 to the wording on virtually every page that states that the  
8 State of Hawaii wants to help in any and all ways any  
9 applicant involved in the geothermal and cable systems. I see  
10 in print how, when my state government wants something, they  
11 go after it.

12           I will believe that geothermal and cable development  
13 on the Island of Hawaii is beneficial and benign only when  
14 these Rules give much more latitude to the community for input  
15 and timely conflict resolution out of court. Thank you.

16           MR. CHAIRMAN: Thank you, Barbara Bell. Michael  
17 LaPlante.

18           MR. LaPLANTE: I hope it's not too bad now, come to  
19 my house for breakfast in six months. Good evening. Thanks  
20 for giving me this time again. I'd like to start with a  
21 little demonstration, just a small demonstration, this one  
22 won't affect your noses. What I'm going to do is just set  
23 this up here and turn it on kind of low (cassette player).

24           Rod Moss last night explained that -- (turns on  
25 cassette player, testimony inaudible)

1           Sorry, new technology for you.

2           VOICE: How many decibels was that?

3           MR. LaPLANTE: That was between 65 and 70.

4           VOICE: And what is the proposed level now?

5           MR. LaPLANTE: Well, Rod Moss stated last night that  
6 they are going to start at 85 decibels around the project  
7 site --

8           VOICE: Louder than that?

9           MR. LaPLANTE: -- with a plus or 10 around that figure.  
10 So, I can't turn it up loud enough to give you what it will be  
11 like 24 hours a day for the next two years at everybody's home  
12 around the project site.

13           Now, I would like to read something for you that I've  
14 got here. My concerns are based on the poorly stated facts  
15 brought forth by True Mid-Pacific Geothermal Enterprises and  
16 Campbell Estates' team of private consultants. I'm a property  
17 owner and litigant against the land swap arranged by Campbell  
18 Estates and the State of Hawaii.

19           I have been severely distressed by the actions taken  
20 by our past Administration and Campbell Estates. I have  
21 personally planned to live, have a family, and grow healthy  
22 plants and crops in peace. True Mid-Pacific and Campbell  
23 Estates have initiated a land swap which has gone through,  
24 as we know, which changes the land behind my property from  
25 Reserved to Industrial.

1           Not once were we asked if this would affect our life-  
2 styles. Private enterprise has no conscience or moral  
3 obligation to residents boarding the Reserve. The state has  
4 the responsibility to negotiate a proper settlement with all  
5 parties involved. Without a doubt, the old Administration  
6 refused to look at the facts and chose to listen to the  
7 opinionated representatives of True Mid-Pacific Geothermal  
8 and Campbell Estates highly paid consultants.

9           Paul Rosenthal representing Campbell Estates and True  
10 Mid-Pacific Geothermal Enterprises was proven vain and  
11 inaccurate in field studies. He also represents private  
12 enterprise while hiding behind a mask of public sentiment  
13 involving the Bishop Museum.

14           The lessons we have learned from his present actions on  
15 Maui displacing ancestral remains, was worth completing a  
16 thorough study, should stand as an example to this Department  
17 of Land and Natural Resources as testimony to his own self-  
18 interests and not those of Hawaii and her people.

19           There are those of us here who have seen the mark left  
20 by our ancestors in the surrounding areas and the Puna Forest  
21 Reserve in these parts, in these areas that we call the  
22 Geothermal Resource Zone.

23           The planting of herbs and edible foods is testified to  
24 by Al Jardine has totally been ignored. The beauty and the  
25 benefits derived from the Puna Forest Reserve is testified

1 to by area residents, have been shelved to serve private  
2 enterprise. The trail systems and burial caves systems are to  
3 be bulldozed over and filled according to testimony by  
4 Mr. Yamada. This will constitute and great loss of history  
5 which I believe plays a great part in the development of our  
6 children.

7 A respect for these lands will show respect for our  
8 past. To destroy our history without totally studying it  
9 shows a lack of respect for the land and its people. To  
10 destroy the land you live on and which supports us agricul-  
11 turally shows us all your lack of respect for the Big Island.

12 The Department of Land and Natural Resources,  
13 Mr. Conner and the County Council members, everybody out  
14 there, I ask you, I beg you to look thoroughly at the motives  
15 of Campbell Estates and True Mid-Pacific Geo Enterprises and  
16 Ormat and the rest of them. I ask all of you, will you be  
17 associated with past Administration's motives or will you be  
18 remembered as a new group of people, a new Administration?

19 My hopes are for a new look at an old problem. I find  
20 it inconceivable that our Governor Waihee, being part  
21 Hawaiian, would back the destruction of the Puna Forest  
22 Reserve and surrounding areas.

23 The Puna Forest Reserve is a living history book with-  
24 out proper study we will loose a chunk of our history to  
25 private enterprise. All of these questions about Hawaiian

1 ancestry seem to be put on the shelf by our old  
2 Administration. I'd ask our fine Governor to ask some very  
3 pointed questions of these developers. All across America  
4 Americans are waking up and seeing the pile left behind by  
5 the dog that represents this type of private enterprise.

6           The reinjection and the sump pond system will bring  
7 tainted water to our crops in the fields and to our children  
8 in the schools on the Big Island. We live on an island that  
9 has limited resources. We have one drinking fountain under  
10 us all. One fresh water lens.

11           The Administration can see the need to limit cesspools,  
12 yet your blind to what a reinjection system or open sump ponds  
13 could possibly dump on our fresh water lands. What specific  
14 controls will be instigated to protect Big Islanders from  
15 toxic spills? What controls will you demand to protect all  
16 Big Islanders? How will you monitor these tests so that the  
17 public believes in you? Your credibility is on the line here.

18           Last but not least, are the helpless creatures to be  
19 displaced and destroyed by progress. Will you walk with your  
20 grand-children and marvel at the beauty of the Hawaiian hawk,  
21 the fresh and alive smell of a rain forest? Will you show  
22 your children, our children, pictures of rain forest or will  
23 there be a living history, a book of living trees and birds  
24 or will there be a future of bitter dissolution created by  
25 uncontrolled private enterprise?

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22 your children, our children, pictures of rain forest or will  
23 there be a living history, a book of living trees and birds  
24 or will there be a future of bitter dissolution created by  
25 uncontrolled private enterprise?

1           Let's all work together to insure the state maintains  
2 control of geothermal development. You know, let's not let  
3 this get out of hand just because the guys got the bucks in  
4 his pocket, and we need the money. Hell, everybody here needs  
5 money.

6           Rod Moss stated in his address to Puna Council, Tuesday  
7 the 20th, that no baseline study has been done in the  
8 northeast boundaries, specifically Fern Acres, Hawaiian Acres,  
9 and Ainaloa. He also stated that no study need be done  
10 because these areas receive no south winds.

11           VOICE: I think we went through that, didn't we, with  
12 those south winds?

13           MR. LaPLANTE: He also stated that no study is needed  
14 to set standards for ambient air quality, noise levels, or  
15 natural wildlife existences. Those studies are needed. I  
16 think this is bull. I demand a study be done before any  
17 further work is done on this project.

18           Rod Moss also stated that there are no known toxic  
19 wastes associated with geothermal wastes, more bull. He  
20 stated a sump pond 200 feet by 300 feet, eight feet deep,  
21 and this is just their first one on their first project  
22 site, is to be built unlined to just sit out there in the  
23 open. This is going to be used for all the effluent  
24 material that comes out when they do their steam drilling.  
25 The entire nine yards is going into that sump pond.

1           What about earthquakes? I haven't heard anybody write  
2 that in their computer projections. Where will all this mess  
3 end up in a time of flash flooding? Do you remember when the  
4 car got wiped off the Pahoia highway? What happens with that  
5 toxic waste from your little project up the hill?

6           Rod Moss stated that the noise level for the drill  
7 alone, the the drill alone will produce will be 85 decibels  
8 around the site. What will it be like on my property line  
9 when the southerlies are blowing or late at night? I want  
10 you to consider that.

11           No toxic waste site has been established by the  
12 developer. Has the state got a toxic waste site to plan for  
13 this? I want to see the paperwork on it. I would personally  
14 like you to have that delivered to me in writing.

15           Rod Moss's question about toxic chemicals, he used  
16 the analogy of fish swimming in the ocean and the pollutants  
17 didn't bother the fish. Well, those of us that know the 200  
18 pound weight limit on commercial catches understand that,  
19 there's mercury poisoning in all fish over 200 pounds. It  
20 assimilates all the smaller fish, and you can't eat that.  
21 What happens with a 200 pound pig when that pig is out there  
22 running around? You know, what happens when we catch a pig  
23 and eat it? Who's going to take those risks and who's going  
24 to be liable for that poisoning?

25           I question the validity of the developer doing his own



1 on-site tests of toxic wastes. Where does the state fit in  
2 here? Why doesn't the state make these tests and take  
3 responsibility for these tests? I mean, you know, you can't  
4 just go, hey, you know, there's the road, get in your car,  
5 fill it with whatever the hell you want, just drive around  
6 and do whatever. I think we have laws about that, it's called  
7 DUI, as I recall.

8 No fencing of this project site will be done by the  
9 developer. Who's liable when kids or farm animals wander into  
10 these areas? Who will begin to take the liability? Who will  
11 be paying for that insurance? I believe it falls back on the  
12 state. I'm not sure, but I would like to have that in  
13 writing also.

14 Rod Moss stated that the site, that on site  
15 archaeological data will be evaluated by the developer and  
16 brought forth as the developer sees the need for public  
17 awareness. Let's wake up to the facts here. You know, if you  
18 guys can't obligate a reasonable archaeologist to get in there  
19 and really take a look, you're going to have hard times in the  
20 future because there's stuff out there. There are pictures  
21 being made and videos being made.

22 And you know what happened on Maui, gentlemen. You  
23 know, we have a threat that they are going to put in a giant  
24 coal mine and burn more oil if we stop the geothermal. Maybe  
25 you just need to really clean it up and clean up the

1 geothermal. You know, I find that really highly  
2 unprofessional, and you should check that out closely.

3 I'd compare this program, since I've been compared  
4 to a few other things, I'd compare this program to a highly  
5 polished apple. It looks real good, you buy it in the store,  
6 take it home, you've paid for it, you take a big bite out of  
7 it and you find it full of worms. Don't be caught with a worm  
8 in your mouth. Wake up to the needs of the County of Hawaii.

9 Now, just to show you that I'm not just up here making  
10 a stinken stink, here's a solution. I worked in Alaska. In  
11 Alaska what they did is they covered whole city blocks with  
12 tents, cover the whole block. They do that when the ground  
13 is unfrozen, before the permafrost sets in. What I suggest  
14 you do is you go out to that HGP-A well and you put a dome  
15 over that sucker. You want the technology, just call the  
16 developer in Alaska.

17 In Alaska I worked on a project that covered a city  
18 block in Anchorage. The entire city block was tented and the  
19 atmosphere inside the portable dome was heated and controlled.  
20 I propose they put a similar structure over the HGP-A selected  
21 site, it's just standing there steaming away, control the air  
22 flow into the dome, you know the ambient air qualities outside  
23 the dome, and then what we do is make it like a big tea  
24 kettle, we put a little top on the top if it. I propose you  
25 cover that HGP-A well now and produce a new and verifiable set

1 data for us all to look at.

2 I personally invited the Department of Health to  
3 participate here tonight. I didn't answer their ad's in time  
4 so I'm not allowed, I'm not in their mediation. I'd asked  
5 publicly to be informed and kept up-to-date on all  
6 mediation efforts. What happens to my interests? I work damn  
7 hard as a carpenter. I was in Hawi for two weeks with little  
8 outside communication. I missed your notice and so I lost my  
9 rights.

10 By not showing us your equipment to monitor H2S and  
11 noise monitors here tonight, you show us your lack of respect.  
12 Your no-show attitude with monitoring equipment shows us that  
13 you are not prepared. Let's get better organized and hold to  
14 our responsibilities to each other as human beings. Thank  
15 you.

16 MR. CHAIRMAN: We'll continue with the meeting.  
17 Robert, I can't make out the name, he's a homeowner in  
18 Leilani Estates. Robert, it starts with a P.

19 MR. PETRICCI: My name is Robert Petricci and I live in  
20 Leilani Estates very near to the HGP-A. I've been hearing a  
21 lot about California, L.A. in particular, their air standards  
22 and water standards.

23 Well, I grew up in California. When I got there in  
24 1961 the air and the water were beautiful, blue and clean, and  
25 I saw it destroyed slowly. First, the air started getting

1 brown on the horizon and by 1973 when I moved to Hawaii it was  
2 unbelievable. The air was a brown-orange haze that burns the  
3 eyes and the throat. I've seen it happen and I see it  
4 happening here in Hawaii again now, and I think we need to  
5 prevent this instead of trying to fix it later.

6 It seems that these Rules, if passed, are going to set  
7 a precedence for other industries. I don't know that I under-  
8 stand all the Rule changes, but it seems that it is the  
9 fastest, cheapest way for the developer to get this thing  
10 done.

11 The state and county have a record of inadequate  
12 planning and then they try to fix the messes by throwing tax  
13 dollars at the catastrophes that they create. So, it seems  
14 that we are supposed to let the state decide what's best for  
15 Hawaii County, and if there is a dispute the state has the  
16 last word.

17 Well, we all know that Honolulu is going to benefit,  
18 and the residents are expected to suffer in silence. Well,  
19 it's not going to happen. We will not be quiet, and we want  
20 a voice in the environment in which we have to live.

21 I'd like to take exception to the stenographer asking  
22 Michael LaPlante to move or she might pass out. I've lived  
23 with the same odor for nine years and I can tell you it's a  
24 lot worse than what Michael smelled like --

25 VOICE: Hear, hear.

1 MR. PETRICCI: -- at my house at times. And not to  
2 mention the associated noises. If this is so bad that the  
3 stenographer can't work, what about me?

4 I'm asking you to move the geothermal subzone far  
5 enough away from my home that I can be comfortable at all  
6 times. Thank you.

7 MR. CHAIRMAN: Steve Phillips, Steve Phillips.

8 MR. PHILLIPS: I appreciate the opportunity to speak  
9 tonight. I'll tell you that I don't have a prepared  
10 statement because I haven't had time to put one together.  
11 People that know me know that I am a little bit involved in  
12 the geothermal issues that are going on now, and I take  
13 exception to these Rules even though I haven't had a chance  
14 to check them over very well.

15 And I think if these Rules are adopted, I think we get  
16 one more step closer to ritualistic democracy. In other  
17 words, cutting us, people who are most affected, out of the  
18 process. And I think that is a sad thing, I think it's a sad  
19 thing when the state finds its own citizens the adversary.  
20 You know, it's the state against the citizens.

21 I think we are losing sight of what's going on here  
22 when the state is trying to force these things on the  
23 residents without participation. I live in Leilani Estates.  
24 I smell the geothermal. I hear it, I've heard it every  
25 night for the last week because it's been running off the

1 hook.

2 I think it's unfair. I think the county is trying to  
3 maintain some kind of control here, and it's unacceptable for  
4 the state to come in with it's heavy handedness and put this  
5 on the local people. And I think this Rule change is that.  
6 I think it's a heavy-handed technique by the people over on  
7 Oahu to make their pet projects go through.

8 The thing I'm most concerned is, it was mentioned  
9 earlier, the precedence is set if we let you roll over us with  
10 the geothermal issue, next will be the spaceport, food  
11 irradiator, we'll be strip mining the ocean, and all this  
12 stuff will be streamlined right to us.

13 And I just wish for once the people from Oahu could  
14 come up with something -- ready to throw money at us that  
15 wasn't controversial. You know, I mean, all these things  
16 you're subjecting us to are controversial. Let's come up  
17 with some imagination. You know, I'm -- basically I have  
18 a flower farm. I have all my money tied up into it and the  
19 state wants to come in and threaten my livelihood.

20 And the basic thing I hear from everyone here is the  
21 typical powerplay, big money against the local citizens. And  
22 it's really grossing-me-out, and I honestly believe that. I  
23 tell you, back and forth, it's the powerful against the  
24 powerless.

25 And for the state to even suggest these Rule changes

1 shows a lack of understanding of the people, over in Puna  
2 especially. And the thing that bothers me the most is we  
3 know that Puna is a poor community. We don't have the money  
4 and the time to go battle you people over on your own turf on  
5 Oahu. I've taken a lot of my own time out. My business is  
6 neglected. And there's mediation going on. I read in the  
7 paper the next mediator was appointed, another mediation will  
8 be starting up and that's two I'll be involved with.

9 Then there's the meeting tonight. There was one from  
10 the Health Department a couple of days ago. I mean, what's  
11 going on here? You guys are not -- I keep saying it, all  
12 these things, your not stupid, you know what's going on, and  
13 I believe you can do a better job of it. At least I for one  
14 believes that I have seen through it. The real purpose of  
15 these Rules changes is to by-pass the community. Thank you.

16 MR. CHAIRMAN: Thank you.

17 VOICE: Excuse me, I wish everybody could see the two  
18 representatives of the Department of Land and Natural  
19 Resources with their guns just sitting outside the doors.  
20 It's very impressive, very impressive.

21 MR. CHAIRMAN: The next person is Ka'olelo 'Ulaleo.  
22 Box 6101, Pahoia.

23 MR. 'ULALEO: Aloha. My name is Ka'olelo 'Ulaleo.  
24 And I'm from Ke kau Keokea in Puna E Kalapana e Hawaii ne'i.  
25 As tutu Pele is one of my family amakua, it is my duty to

1 speak out. The lawsuit involving the illegal land exchange of  
2 27,000 acres of ceded lands which is the upper portion of the  
3 'apua'a of which I am a tenant, and the 25,000 acres owned by  
4 Campbell Estates is a clear indication of the ruthlessness of  
5 these damned right-wing elites.

6 Just who the hell does the Estate of James Campbell  
7 and HELCO think they are that they should be made rich by the  
8 State of Hawai'i in disturbing and swapping the ancient and  
9 traditional boundaries of the 'apua'a?

10 You people who sit in the position of authority in  
11 this illegal land exchange are a bunch of crooks. You  
12 brazenly steal from an entire race of people to suit your damn  
13 greed. This is the Kepolo's doing. The nerve. Real  
14 maha'oi. Po'i o Hawai'i. If you sit silently by and allow  
15 this crime to continue I will guarantee the high price to pay  
16 will be your health.

17 When you allow these ruthless capitalists to charge an  
18 entrance fee to sacred Kilauea to help bring down the pilau  
19 budget deficit the harmony was disturbed and the balance  
20 thrown off.

21 Did the state make you rich? No. You poor Hawaiians  
22 who remain silent to this nui crime lost your home and  
23 property. And the price we all pay is to breathe the fumes  
24 and drink the lead poisoned water.

25 This is only a small indication of what will happen if



1 Campbell Estates is allowed to develop a 500 megawatt in the  
2 area known as Wao Kele o Puna and the Puna Forest Reserve  
3 which is not and never was their property.

4 VOICE: Hear, hear.

5 MR. 'ULALEO: We will all be doomed if we permit this  
6 to happen. The wailing cries of our children and grand-  
7 children as their lungs collapse will be a reminder of our  
8 stupidity.

9 Those of you who have driven past the Pohiki well  
10 geothermal site know what I'm talking about. The offensive  
11 toxicants irritate the nasal-sinus cavity and throat. In  
12 fact, the sewage plant up Front Street at Puhī Bay is an  
13 example of this stink. If they can't solve the smelly problem  
14 up Front Street and Pohiki, what makes them think they'll  
15 have 500 megawatts of stink, doo-doo smell under control?

16 The offensive smell will greet everybody upon opening  
17 your doors. And when the rain comes, for which we have more  
18 than our share, then we will all be drinking lead contaminated  
19 water and all asking for pule.

20 Campbell Estate and HELCO get out of my 'apua'a of  
21 Wao Kele o Puna and go back to the 'Ola'a where you belong.  
22 You deal with Pele because she is nuha with you folks not  
23 with me. If I allow this to happen than will she be nuha  
24 with me.

25 I have my own interests to protect as Kahu of Wao

1 Kele o Puna as well as all of sacred Kilauea. You lucky I  
2 don't put a kapu on all of Kilauea.

3 The legitimacy and authority of you power elites is  
4 a fraud on the Hawaiian people as well as the general public.  
5 I question the authority of political leaders involved who  
6 created the conditions to make these possible abuses of power.

7 You greedy power elites are being challenged. The  
8 State of Hawai'i, the Legislature, the Campbell's, the  
9 Governor, and all involved in this corruption. As for Ormat,  
10 the Israeli money involved, I extend an invitation to the  
11 Arabs to come and blow it up.

12 We have reached the age of a crisis of legitimacy  
13 and the order that has prevailed ought to be ashamed of them-  
14 selves. How quickly we forget when Pele went from  
15 Kahamua la'a to her mansion of Mauna Loa, and came within  
16 near distance of Hilo. The Mayor then, Herbert Matayoshi,  
17 put out a public appeal to all of us kahunas to spare Hilo.

18 Well this time around nothing will be spared. For I  
19 will challenge any kahuna who would sell us out, and it will  
20 be a major battle for Hawaiian history. Why, in tradition,  
21 royalty would have asked for my advise and I would have said,  
22 'A'ole. And they would have accepted it and respected it.

23 If the Ayatollah could topple a king, the Governor  
24 should be a piece-of-cake for me. If you people don't  
25 know the woman of sorrow let me tell you, all that remains

1 will be ashes. Mahalo.

2 MR. CHAIRMAN: Thank you. Clive Cheetham, Clive  
3 Cheetham.

4 MR. CHEETHAM: First of all, I would like to find out  
5 how many representatives from DLNR and/or the State are  
6 present tonight?

7 VOICE: Are those guys with guns with DLNR?

8 MR. CHAIRMAN: Pardon?

9 VOICE: Are those guys with guns out there from your  
10 agency?

11 MR. CHAIRMAN: They're security from DLNR.

12 VOICE: From Honolulu over to here to protect you?

13 MR. CHAIRMAN: No, from here, from here, this island.

14 VOICE: From Hilo?

15 VOICE: To protect what?

16 MR. PERRY: To protect what? To protect us from you?

17 No, no, no laughing. Who are they here for?

18 MR. CHAIRMAN: They're here as security.

19 (Several people speaking at once.)

20 MR. CHEETHAM: Excuse me. I think that this is my 15  
21 minutes, all right. You know, you can deal with that after --

22 VOICE: Well, they should come in then.

23 MR. CHEETHAM: Can I ask my question again?

24 VOICE: Yes.

25 VOICE: Ask it again.

1 MR. CHEETHAM: How many state representatives are here  
2 tonight from DLNR or any other state representatives?

3 MR. CHAIRMAN: Myself and Janet Swift there.

4 MR. CHEETHAM: That's it?

5 MR. CHAIRMAN: (Nods head up and down)

6 VOICE: And their hired guns.

7 MR. CHEETHAM: Well, I'm not really interested in  
8 them. Well, I'd like to express disappointment with that. I  
9 think that's really too few to be inviting the public of the  
10 Big Island to come out and give their testimony for just  
11 you people, it could be more.

12 I find the projected cost of this cable project, the  
13 geothermal development and cable project, seems to be around  
14 two billion, that's the figure I hear being bandied around,  
15 and that it will probably be more.

16 I feel for this amount of money the island of Oahu  
17 could very likely develop solar, wind, and other alternatives  
18 using existing technology. I'm not just quoting platitudes  
19 here, solar, wind, and the different technology that exists,  
20 especially for a few billion plus --

21 VOICE: Hear, hear.

22 MR. CHEETHAM: -- and for their peak-load requirements.  
23 Since most of these alternatives supply peak loads not base  
24 loads. The base load on Oahu could still come from what they  
25 already have as the proposed geothermal electricity coming

1 from the Big Island would not replace what Oahu already has,  
2 they just want to add to it. They can use what they already  
3 have for the base load and they can get their peak load from  
4 developing alternatives on Oahu.

5 I would think that Oahu would have to have a back up  
6 in place just in case the cable failed. So I don't know how  
7 they are addressing that. I think that Oahu could also save  
8 hundreds of megawatts applying conservation methods, and  
9 changing habits, employing more efficient electrical  
10 installations, there are many ways to reduce their need for  
11 electricity.

12 It just seems that certain people are excited about  
13 this project because they see a chance to acquire a lot of  
14 money. I do not believe that this geothermal and cable system  
15 is economically, socially, or technology viable. In fact,  
16 there is a good little quote in here on Page 185-5 that says:

17 "The department shall receive applications for leave  
18 to intervene from any member of the public. However, the  
19 department shall deny an application if it appears it is  
20 substantially the same as the position of a party already  
21 admitted to the proceeding or if admission of additional  
22 parties will render the proceedings inefficient and  
23 unmanageable".

24 Now, I think that is very appropriate because I  
25 believe that this geothermal and cable system is efficient

1 and unmanageable. And I believe that the geothermal and  
2 cable system development project would be detrimental to the  
3 residents of the islands of Oahu, Maui, and Hawaii.

4 Therefore, in closing I would like to recommend that  
5 the whole plan of sending geothermally generated electricity  
6 from Hawaii to Oahu be scraped. This will automatically  
7 render these Rules of Practice and Procedure being discussed  
8 tonight redundant. Thank you.

9 MR. CHAIRMAN: Thank you. Duane Kanuha.

10 MR. KANUHA: Thank you, Mr. Lum. I'd like to read into  
11 the record tonight the letter directed to William W. Paty,  
12 Chairperson, Board of Land and Natural Resources, regarding  
13 the proposed Administrative Rules or Act 301, SOH 1988,  
14 Geothermal and Cable System Development Permitting Act of  
15 1988.

16 "Thank you for the opportunity to review the proposed  
17 Rules which seek to implement Act 301, SOH 1988. Inter-  
18 agency cooperation and coordination is precisely what is  
19 needed in this effort to consolidate, where possible,  
20 permitting processes and procedures for geothermal and cable  
21 system development projects.

22 "It is proposed to transmit geothermally generated  
23 electrical energy from the County of Hawaii to other islands  
24 within the state. The pursuit of this effort, however, must  
25 be tempered with a realistic understanding of various

1 processes and procedures which are currently in place and  
2 whether or not attempts at consolidating this highly complex  
3 regulatory maze will be a meaningful one.

4 "It is from this perspective that we have a number of  
5 suggestions to the proposed Rules which we hope will help your  
6 efforts to clarify some of the ambiguities that stem from the  
7 underlying statutory authority. We have discussed some of  
8 these technical areas with the Staff and stand ready to offer  
9 our continued assistance in this regard.

10 "There are, however, several long-term planning related  
11 issues that I would also like to raise for your consideration  
12 at this time.

13 "First. We question if the objective of streamlining  
14 the permit system can really be achieved through these Rules.  
15 Although implied, it is not clear whether the consolidated  
16 permit is intended to be the first permit which must be  
17 obtained by a potential geothermal and cable system developer.

18 "We, on the county permitting level, have long dealt  
19 with this sequencing of approval issue. And outside of  
20 agreeing that discretionary permits should precede  
21 ministerial permits, we foresee continuing potential  
22 conflicts in determining the order of county, state or federal  
23 permitting requirements given the various agencies that  
24 existing procedure mandates.

25 "The make up and function of the inter-agency group

1 is also unclear as proposed. What is clear is that this group  
2 is supposed to be comprised of geothermal related permitting  
3 agencies whose activities have not been transferred by Section  
4 196D-10.

5 "Directly involved state and county permitting agencies  
6 such as the County Planning Department, Planning Commission,  
7 Public Works, Department of Water Supply, and Fire Department  
8 are required to participate in the activities of the inter-  
9 agency group. But as such key participants do not have a  
10 direct role on the proposed inter-agency group, our input  
11 in the permitting perspective may not be considered in a  
12 meaningful fashion.

13 "Further, if much of the focus of the inter-agency  
14 group will be directed by the Consolidated Permit Application  
15 and Review team, the working group that apparently will  
16 conduct most of the business, then what is the role of this  
17 inter-agency group?

18 "Generally, the conflict resolution process and the  
19 monitoring for compliance sections need more thought.  
20 Conflict resolution needs a third party mediator role,  
21 especially if impasse is declared. The monitoring area is  
22 cumbersome and seem to be duplicative.

23 "Finally, I would be remiss if we did not raise the  
24 issue of home rule from a planning, community, and  
25 governmental perspective. We understand that the intent of



1 the Statute is not to infringe upon or invalidate the  
2 jurisdiction or authority of any existing agency, particularly  
3 that of the respective counties.

4 "However, this coordinated effort on behalf of  
5 assisting the implementation of geothermal resource  
6 development and cable transmission of energy may fall short  
7 on practical application. Should this occur, any potential  
8 solution must preserve the jurisdiction and responsibilities  
9 of this county.

10 "We fully intend to be involved with this effort while  
11 keeping a cautious eye for these potential long-term  
12 implications.

13 "Thank you for this commenting opportunity and we look  
14 forward to continuing dialog in the development of these  
15 proposed Rules. Duane Kanuha, Director, Planning Department,  
16 County of Hawaii". Thank you.

17 MR. CHAIRMAN: Thank you, thank you, Mr. Kanuha.  
18 Helene Shinde.

19 MS. SHINDE: Hi, my name is Helene Shinde. And I have  
20 worked directly with the endangered species. I have worked  
21 one year for the Fish and Wildlife and I would like to talk  
22 for the unspoken ones, the birds.

23 And also, I have also worked one year in the Volcano  
24 National Park and my job was to try to eradicate goats to stop  
25 them from eating the birds habitat. And I believe the --

1 can you hold on one second -- the 'amakihi would face  
2 extinction because of it and it's a very sensitive  
3 ecosystem.

4 And I would like to talk more about it right now. I  
5 have seen numerous sightings of i'o in the affected geothermal  
6 zones, subzones. And in one day my father and I saw both  
7 female and male within a three hour period. And you might  
8 think us a bit eccentric, we have all our land is wild, and it  
9 is for the reason for conservation wise and having some  
10 indigenous plants preserved. I guess we are very different.

11 As far as protection of these species it should really  
12 be considered in this permitting process. And we have a  
13 female i'o roosting on our lauhala tree. Its territoriality  
14 is very wide, you know, a wide range and we don't want to  
15 disturb its nesting site. So we went there once and that was  
16 enough.

17 The geothermal developers say that probably the impact  
18 of this project will be a 35-year span. I believe their  
19 assessments for the future is very shortsighted. Once an  
20 endangered species is extinct, it is too late. The i'o plays  
21 an important part in the ecosystem in Hawaii.

22 If public agencies feel that way, they are curtailing  
23 the use of fossil fuels as compared to environmental concerns  
24 like the i'o. That is just one bird as an example, there is  
25 also the pue'o and the hoary bat.

1 I feel that in the long-term duration man will be  
2 extinct on day also and that's a very sad thing to think  
3 about. There is a -- okay, one day we might have our land as  
4 very barren at the rate we are going. I'm very surprised in  
5 this generation there is so many species of animals and plants  
6 that is getting extinct.

7 Because we have a very complex situation in Kapoho  
8 which will involve homes, developers, and endangered species  
9 of birds and some indigenous trees, I'm really concerned about  
10 what will happen. I've seen the HGP-A well and the emissions  
11 that have come forth from it. And I've seen the trees around  
12 it, its defoliation. And if any of you have had contact with  
13 the Agent Orange it's like Vietnam.

14 So, I would really feel sorry for all of you folks  
15 to see life pass, probably in the next generation, you may  
16 not be able to see the ones, your children's children may not  
17 see the wildlife and plants on this earth. Thank you.

18 MR. CHAIRMAN: Thank you. Is there anyone else who  
19 would like to testify? Could you sign in here and give us  
20 your name.

21 MR. ALULI: I was the one asking the questions.  
22 Mr. Chairman, thank you. First of all I have to agree with  
23 the -- I'm sorry. My name is Emmett Aluli, I'm with the Pele  
24 Defense Fund. I have to agree with the first speaker here,  
25 Mr. Ross, the fact is that this hearing should be invalidated.

1           Your notice was not substantial enough. It didn't  
2 give any information. You attempted at the opening of the  
3 hearing to give information, but it was standard rhetoric.  
4 It just moved, streamlined, and expedite the whole process.

5           I just want you to know that this process is one that  
6 is running rampant on this Big Island, rampant with the  
7 different geothermal proposals. I think that your  
8 department is not paying attention to what is going on with  
9 the Scientific Observation Holes, the transmission lines, with  
10 Ormat, with the 100-megawatt proposal, and the ongoing  
11 400-additional megawatt proposal.

12           And now you come to us and want us to accept your Rules  
13 and Regulations for the authority, this so-called Center, to  
14 facilitate this whole thing. And it's not working well at  
15 all.

16           You'll find that most of the residents of Kapoho on to  
17 Kalapana all the way around Wao Kele o Puna and even across  
18 this island, Kohala, have got to scramble all of a sudden, and  
19 have to kind of really get involved in the next year to try to  
20 like get their questions answered.

21           The problem that I see with the Center is that you've  
22 perpetuated an "old boys club" one that just started with  
23 Ariyoshi and into here with Metcalf and Matsuura and on down  
24 to the developers who write all these Rules and Regulations  
25 and pass it through to their own counterparts the Carpenter

1 Administration. You've got the Bishop and Campbell Estate,  
2 Lyman Estate, major land owners, and they're pushing these  
3 permits through on their properties.

4 You've got everybody even the judges convinced, and I  
5 don't see how the DLNR is going to be able to do a better and  
6 fairer job in listening to the concerns of the communities  
7 involved.

8 I think the Center is one thing that is going to kill  
9 us all because it applies to a lot of other developments here  
10 on the Big Island, on every island, that you and the  
11 Administration and everybody else is just going to facilitate  
12 through. And then you talk about trying to get justice in  
13 hearing the concerns of the community affected and this is  
14 not going to do it.

15 I also want you to know that that this whole  
16 geothermal development besides the impact it has to the native  
17 Hawaiian culture and traditions, of Pele, to the environment,  
18 and the native species, it is also very, very costly.

19 The problem the way DLNR has been handling things is  
20 the developers they write the economic assessments. And  
21 nobody else can go and get a second opinion. While they say  
22 1.5 billion dollars for this geothermal project and cable, and  
23 it's going to cost us even more like four billion dollars.  
24 It's the taxpayers that have to pay.

25 You talk about geothermal lighting the skies of

1 Honolulu. You talk about a cable, but Honolulu is undergoing  
2 their own process to provide their own selves with alternative  
3 or other kinds of energy production. And I'm talking about  
4 the 240-megawatt proposal down in Campbell Estate land at  
5 Barbers Point. That's 240 megawatts they're going for, and  
6 they are going to go on for may be another 250 megawatts. And  
7 here we're sitting with 500 megawatts; to do what?

8 I don't think the DLNR is able to give us the bigger  
9 picture. It's like all of us trying to envision a Hawaii  
10 that we are used to and we wanted to perpetuate it and your  
11 coming in with a picture that we just have no handles on.

12 What really hurts us here is your whole SMA process  
13 throughout all the counties. The DLNR, are they going to  
14 assume all the SMA kinda like permits that have to be granted  
15 on every shore where the cable comes up or goes down?

16 The SMA still has intact, contested cases where the  
17 experts haven't come with all their materials and can be  
18 cross-examined, and therefore, the whole question as to the  
19 validity, and the purposes, and the economics, and the impacts  
20 can all be dealt with. And then the community has to live  
21 with whatever decision is made on the local level.

22 And that's what I see so wrong with this Geothermal  
23 Center and the promulgated Rules. I'm hoping that after  
24 this, whatever the prospect is, you will re-write these Rules  
25 and come back to us for public hearings. And there is more

1 input by the people on every island as to what this geothermal  
2 authority is doing. Thank you.

3 MR. CHAIRMAN: Thank you. Is there anyone else? (No  
4 response) If not, I want to thank you all for coming, taking  
5 time out from you busy schedule to attend here tonight. Your  
6 testimony will be on the record and I would like to remind you  
7 that you have until July 7th to submit additional testimony,  
8 July 7th. Thank you very much.

9 (The public hearing was concluded at 9:15 p.m.)  
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C E R T I F I C A T E

STATE OF HAWAII    )  
                           )  SS.  
 COUNTY OF HAWAII  )

I, ANDREA H. VASCONCELLOS, Notary Public, in and for the State of Hawaii, do here by certify:

That on Wednesday, June 21, 1989, at 7:15 p.m., appeared before me the Commission members, Staff members and speakers mentioned herein;

That the hearing testimony was taken down by me in machine shorthand and was thereafter reduced to print under my supervision by means of computer-assisted transcription; that the foregoing represents a true and correct transcript of the proceedings had in the foregoing matter.

I further certify that I am not an attorney for any of the parties hereto nor in any way interested in the outcome of the cause named in the caption.

Dated: June 26, 1989.



ANDREA VASCONCELLOS,  
 Notary Public, State of Hawaii  
 My commission expires: April 23, 1990