PLANNING COMMISSION
COUNTY OF HAWAII

PUBLIC HEARING

Application of Puna Geothermal Venture for a Geothermal Resource Permit (GRP) to allow the development for the generation of electrical power to furnish Twenty-Five Megawatts of electrical capacity to Hawaii Electric Light Company's grid system.

TRANSCRIPT OF PROCEEDINGS

A public hearing was held at the Kona Surf Hotel, Kamehameha Ballroom, Keauho, North Kona, Hawaii, on Tuesday, September 19, 1989, commencing at 10:35 a.m., pursuant to Notice.

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

APPEARANCES:
Gary Mizuno, Chairman
Fred Fujimoto, Vice-Chairman
Dennis Holt, Commissioner
Tommy Ishimaru, Commissioner
Jeanne Cromer, Commissioner
Tom Poy, Commissioner
Kerstan Sanchez, Commissioner
Mike Luce, Commissioner
Duane Kanuha, Planning Director
Fred Giannini, Office of Corporation Counsel
APPEARANCES: (Continued)

STAFF REPRESENTATIVE: Norman Hayashi, Planning Department
Rodney Nakano, Planning Department
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MR. NAKANO: I'm, at this point in time, not sure. But it's my understanding that the landowners did have some agricultural kinds of operations. And whether the landowner was a farmer or whether the actual producer of these crops was someone else, I'm not aware.

MR. ISHIMARU: Are there anyone living there?

MR. NAKANO: To my knowledge, there are no residents.

MR. ISHIMARU: No residents. Thank you.

MR. CHAIRMAN: Any other questions for Staff? (No Response) If not, before we proceed with the state's presentation, we'd like to ask everyone here who intends to testify at this hearing to please rise, so I could swear you all in at once.

Please raise your right hand. Do you swear or affirm to tell the truth on this matter now before the Hawaii County Planning Commission?

MEMBERS OF THE AUDIENCE: We do.

MR. CHAIRMAN: You may be seated. First of all, representing the State of Hawaii, I'd like to call on Mr. Leslie Matsubara.

MR. MATSUBARA: Thank you, Chairman Mizuno and members of the Hawaii County Planning Commission. My name is Les Matsubara, Deputy Director of the Department of Business and Economic Development here testifying on behalf of my director, Mr. Roger Ulveling who is meeting this morning with Governor
Waihee and various governors from several Pacific Island nations.

My testimony incorporates comments from the Department of Land and Natural Resources, Health, Agriculture, and Business and Economic Development. If I might, I'd like to introduce representatives of the state here today.

First of all, Susumu Ono special consultant to the state and recently named by Governor Waihee to be the geothermal coordinator. Dr. Bruce Anderson, Deputy Director Environmental Health of the Department of Health. Manabu Tagomori, Deputy Director Department of Land and Natural Resources.

Susan Peterson, Deputy Director Department of Agriculture. Paul Schwindel who is a planner over at the Department of Ag. Larry Lau, Deputy Attorney General from the litigation section. And from our Staff, Maurice Kaya, who is the Energy Administrator. And Gerald Lespernnc our Geothermal Coordinator.

We recommend your approval of Application Number 87-1 for a 25-megawatt geothermal project submitted by Puna Geothermal Venture.

The Island of Hawaii has been the focal point for alternate energy development in Hawaii. As the State's Energy Resources Coordinator, I can assure you the state spends more on this island than all the other island combined for
alternate energy development.

The Department of Business and Economic Development has three energy extension service agents on this island concentrating on energy conservation, whereas Maui has one, Kauai has one and Oahu has none.

We believe that a properly developed, small geothermal facility supplying Big Island electrical needs, such as that proposed by PGV, will serve to demonstrate to Puna residents that a future, larger project to serve the rest of the state can be accomplished in an environmentally sound and socially acceptable manner.

This Commission has very recently asked that the state meet certain conditions before this application is decided upon. In reference to the establishment of an asset fund, the State Administration proposes the following:

One. A fund be established, or an existing fund be used, if appropriate, to provide relief to adversely affected individuals and/or communities resulting from impacts of geothermal development;

Two. The County of Hawaii will administer the fund. The County should establish appropriate rules under provisions of Chapter 91, HRS, which is the Administrative Procedures Act. Eligibility and priority setting criteria should be an integral part of the rules;

Three. The net revenues derived from the sale of
resources from the HSP-A well shall be deposited into the fund. Should it be determined that the Office of Hawaiian Affairs is entitled to a portion of the net revenues, such sums shall be so allocated. In addition, well and piping, operating and maintenance costs are to be provided for from the gross receipts;

Four. The creation of this fund should not relieve the developers from contributing to this fund;

Five. The need for this fund should be reviewed periodically. A suggested date for the first review would be 10 years from the date this fund is established.

This Commission has also expressed concern about the lack of published geothermal air quality standards. The Department of Health has undergone a thorough review of standards that were originally proposed. During the review, the DOH has determined that more stringent standards that are as low or lower than California standards should be considered because of the evolution of control technologies available today.

These will require re-proposal of these standards and further public hearings. They could be adopted by the end of this year. In the interim, the Department of Health has sufficient authority to apply stringent requirements and will apply BACT to permit geothermal development activity such as Puna Geothermal Venture's 25-megawatt project.
The Department of Health will provide technical guidance and DBED will assist with resources to develop geothermal noise standards.

You have also indicated concerns about the impact of geothermal development on horticulture, agriculture, and floriculture. The Department of Ag will provide expertise to work with county officials to study and monitor the effect of volcanic and possible geothermal emissions on agricultural crops in the area.

Funding for this effort must be obtained, and the DOA will seek assistance either from the Governor's Agricultural Coordinating Committee or the legislature for this effort. We suggest that an appropriate local group work with the University of Hawaii at Hilo to prepare a proposal to DBED and DOA to help define the problem.

If the county is having difficulty with the underlying state statute that requires mediation for Geothermal Resource Permit applications that are contested, we are willing to support reasonable alternatives with one caveat. We will not favor return of the contested case nearing provision.

In summary, we feel that we do have the necessary mechanisms in place to effectively permit and enforce the permit conditions for the first commercial geothermal project in Hawaii. We urge your favorable consideration of PGV's application. Thank you for the opportunity to provide these
MR. CHAIRMAN: Commissioners, any questions?

MR. LUCE: Mr. Chairman.

MR. CHAIRMAN: Commissioner Luce.

MR. LUCE: Mr. Matsubara, Page 2, Item 3, where you talk about the net revenues derived from the sale of resources derived from the HGP-A well.

MR. MATSUBARA: Yes, sir.

MR. LUCE: Could you elaborate on that a little more for us, such as, is this a proposal for a annual contribution or is it a one-time deal? Or basically what are we looking at in terms of the net revenues for the current project?

MR. MATSUBARA: If I may, I would like to call on Mr. Ono who did meet with the Governor regarding the asset fund proposals and I was not privy to that meeting.

MR. ONO: Mr. Chairman, if I may proceed?

MR. CHAIRMAN: Please proceed.

MR. ONO: On the net revenues derived from the sale of resources from the HGP-A well. It was intended to be more than a one-shot contribution.

The net proceeds intended to go into this asset fund annually with the understanding, again, if OHA is entitled to a portion of the proceeds that should be taken off the top. The operating and maintenance costs should also be deducted.

The number, it's kind of a ruff number, but we're
talking gross receipts from $300,000 to $400,000.

MR. LUCE: Gross or net?

MR. ONO: Gross.

MR. LUCE: Then how does that translate into net revenues?

MR. ONO: One sure thing is that, again if OHA is entitled to its share, 20 percent of that should be deducted. But beyond that point, it's really kind of hard to guess what it might be.

MR. LUCE: I'm still a little confused. Gross revenues of, did you say, 300 to 400?

MR. ONO: That is correct.

MR. LUCE: And from that needs to be deducted well and piping --

MR. ONO: Oil and rig.

MR. LUCE: -- and maintenance costs?

MR. ONO: And OHA's share.

MR. LUCE: And OHA's share.

MR. ONO: And OHA's share, that continues annually.

MR. LUCE: So the annual sum would be considerably less than $300,000 to $400,000?

MR. ONO: Yeah, it would be less than the gross amount.

MR. LUCE: How is that OHA has an opportunity to acquire some of this revenues?

MR. ONO: Well, we're not saying that it's absolutely
determined that they are entitled, but we have to research that. And there is a section in the statute that calls for a formula that would require certain types of revenues derived by the state to be considered for OHA. That's the 20 percent that's taken off the top.

So, that's, but we have to research the title and how the state acquired the property it maybe would be entitled under existing laws.

MR. LUCE: I think I'm getting a handle on this. As far as annual contribution, initially, is there an initial contribution that would be somewhat different from the proposed annual, future contributions.

MR. ONO: Not, nothing like that has been proposed, no. It would be the earnings from the HGP-A well. For the first year, if it's not a full 12 months operation, then there would be a proportionate reduction at the end of the year, fiscal year.

MR. LUCE: Thank you.

MR. CHAIRMAN: Commissioners, any other questions for either Mr. Ono or Mr. Matsubara?

MR. LUCE: One more for Mr. Matsubara, Mr. Chairman.

MR. CHAIRMAN: Mr. Matsubara. Mr. Luce.

MR. LUCE: Another of your sections on Page 2 indicates that, "The Department of Health will provide technical guidance and DBED will assist with resources to develop
geothermal noise standards." He was just talking about noise but generally speaking -- maybe subsequent speakers could answer too -- but is the state or any of their departments in a position to assist the County of Hawaii with enforcement of emission and noise standards?

I ask that because historically our county runs on a tight budget, tight manpower, tight funding, we never seem to be able to be enough places at the same time.

MR. MATSUBARA: Let's go back to the first part of the question. The Department of Health does have the technical expertise. We've been asked to come in with the bucks to help them out on those geothermal noise rules.

I can't speak for the Department of Health as far as their offering their assistance to the County of Hawaii. But in various conversations it's my understanding that, for example, on Oahu the state does help out the enforcement only out of happenstance. The county has a difficult time running it and I'm sure the various other counties also have the same problem. But perhaps Dr. Anderson could further respond.

MR. LUCE: Thank you. Thanks, Mr. Chairman.

MR. CHAIRMAN: Commissioners, any further questions?

MR. KANUHA: Mr. Chairman.

MR. CHAIRMAN: Planning Director, Kanuha.

MR. KANUHA: I have a question for Mr. Ono, if I may.

MR. ONO: Yes.
MR. KANUHA: The state's contribution into the asset fund.

MR. ONO: Sure.

MR. KANUHA: The proposal that is being advanced by the state is to have the state's contribution be those net revenues from the sale of the HGP-A resources which will be deposited into the proposed asset fund. Would that be the limit of the state's contribution into this fund?

Or is there any down-the-road or long-term commitment or at least a commitment to look into perhaps a percentage of any geothermal royalties that may be accrued? There are other projects other than the HGP-A plant. Do you have any response to that?

MR. ONO: Yes, Mr. Kanuha. The state's position is that the contribution would come all from the HGP-A resource. Any consideration of using prospective royalties is not granted into the proposal.

One consideration is that any changes to the royalties portion of the statute would have to go back to the legislature also. Right now, the Land Board can waive the royalty for eight years, but that's about as flexible as we can get.

MR. KANUHA: Down the road, would the state be willing to look into that avenue, realizing that it may take legislation so on and so forth, but would the state be willing
to consider discussion of that kind of proposal in the future?

MR. ONO: I would like to qualify, I say "yes" but just for, you know, discussion and see if there are other options available. But I really don't want to mislead the Commission into thinking that's part of the package. It's something separate from the package that has been proposed this morning.

MR. KANUHA: Thank you, Mr. Chairman.

MR. CHAIRMAN: Just a minute Sus. Are the other representatives from the state also going to be testifying?

MR. ONO: No, Mr. Matsubara's testimony was consolidated testimony.

MR. CHAIRMAN: Oh, I see. So, it was consolidated from all the representatives here.

MR. ONO: If there are specific questions pertaining to specific departments, the representatives would be able to respond.

MR. CHAIRMAN: Commissioners, do you have any other questions for the State of Hawaii?

MR. LUCE: Mr. Chairman.

MR. CHAIRMAN: Commissioner Luce.

MR. LUCE: Question for the Department of Health.

MR. CHAIRMAN: Will the representative for the Department of Health please come forward. For the record, would you please state your name into the microphone.

MR. ANDERSON: Mr. Chairman, I'm Bruce Anderson.
MR. LUCE: Mr. Chairman.

MR. CHAIRMAN: Commissioner Luce.

MR. LUCE: Question for Sus Ono from the State of Hawaii.

MR. CHAIRMAN: Proceed.

MR. LUCE: Mr. Ono, we had Ron Phillips from Puna Community Council testifying some time ago, issuing some concerns about the position of the state with respect to the asset fund we talked about earlier. I think his concerns were based upon the treatment of royalties, incomes, that he thought was discussed at the mediation meeting with the Governor and also a concern about HGP-A assets.

And further, I'd like a clarification on the state's proposal for the asset fund should HGP-A assets prove not to be in the black or rather zero or in the red. Excuse me, not the HGP-A assets, but the revenues.

MR. ONO: Mr. Chairman and members. The clarification is offered as follows: The Governor's letter of August 16th does say the state royalties from geothermal development may be used to generate benefits. That's public record.

In reviewing the request, the Administration felt that using the HGP-A resource would be a more direct, flexible approach to provide these funds, depositing the funds into that account much sooner. So this was, using the royalties was one possibility, but as I said this morning, they didn't
want to package that possibility into this proposal.

So, we discussed the royalty structure and what
happens, we considered royalties, yet but not as part of this
package. In lieu of that, we are advocating that the HGP-A
resources, the revenue from the resource, be used to fund this
asset fund.

So, I don't think there is any change in position or
anything like that, it was a clarification of a question that
was raised earlier. And one of the questions that did come up
at the meeting that Mr. Kanuha had with the Governor, was to
go to the individuals so the individuals can benefit. And the
Governor in clarifying his position did say "yes", but earlier
I think there was a question whether individuals could
benefit.

So, again, there has been no change but a clarification
in a previously stated position. So, again, I don't see any
inconsistency or, you know, change in position that was not
intended.

MR. LUCE: Mr. Chairman, is Mr. Phillips here?

MR. CHAIRMAN: Mr. Phillips?

MR. LUCE: No, Mr. Ono, I'm not done yet. I just
wanted to be sure he's here. We've heard from the applicant
with some hard figures regarding applicant contribution to an
asset fund. That means $60,000 initially, $50,000 a year for
eight years for a finite amount. Could you please help me,
again, summarize the states position on the asset fund? I understand that there's a pledge of HGP-A net revenues excepting for possible OHA claims and net means after operations, correct?

MR. ONO: Yes, sir.

MR. LUCE: I understand that. I don't have a feeling for how much that may be. I'm still not clear if that's annual contributions or a one-time contribution.

MR. ONO: It will be an annual contribution.

MR. LUCE: Annual contribution. Okay, now, the key thing gets into the realm of good faith. What I've heard from you, I think, is that the state is willing, should HGP-A revenues be either, the net revenues, be minus, be zero or be less than sufficient for the asset fund, I believe I heard earlier today from you, in good faith, that the state was willing to look at making further contributions to that fund based on HGP-A net revenues, am I correct?

MR. ONO: That is correct, except for one change. If it's plus something, I will not be able to commit it. But if it's minus or zero and to get the fund started, we have committed to get money from other sources and deposit that into that account, not a continuous, annual contribution though, I think I made that statement earlier.

MR. LUCE: Yeah, thank you for bringing that up. That was something that I was trying to grasp too. You know,
Plan B should the net revenues not be positive --

MR. ONO: Right. Then there is a commitment that there will be contribution from the state from other sources to that, but again I'd like to clarify, not like the HGP-A revenues where the annual contribution, we have to find funds from other sources would be a one-shot, up-front contribution.

MR. LUCE: And when, let's say we have a case here where initially HGP-A revenues are zero or less, there's a one-shot contribution?

MR. ONO: Yes.

MR. LUCE: And subsequent to that HGP-A revenues turn back to the black, positive, would then those, would those then be contributed annually?

MR. ONO: The --

MR. LUCE: Is that the intent?

MR. ONO: Yes. The HGP-A resource is still the primary source. If, let's say, five years down the road, whatever reason five years down the road, we start realizing a balance, then the balance will be contributed to the asset fund. Although the state had contributed up-front five years previously to get the fund started.

With one condition, we would like to add, if the asset fund or HGP-A resource starts generating net revenues, has a positive cash flow, we would like to have the front-end money that was contributed to start the fund, reimbursed.
It can be, a payment schedule can be, whatever, but the principle, we would like to have the up-front money.

MR. LUCE: So, basically, conceptually, that could work. If revenues are not positive, if there is a one-time contribution, in the future the net revenues from HGP-A turns positive, monies are contributed with the concept at one point in the future, credit be made back to that initial contribution. Now, I would assume the intent there is, repayments would not be required until such time as this asset fund has served its purpose. In other words, compensation has been doled out, the fund --

MS. COMER: If required.

MR. LUCE: If required, good point. And I think you also asked for a periodic review --

MR. ONO: That is correct.

MR. LUCE: -- so that, what I'm getting at is the intent is that repayments wouldn't be made until such a time that if there's pressure on the fund, that pressure would be gone. That is the intent.

MR. ONO: Yeah, I'd like to --

MR. LUCE: You said it would be at some point in the future and I'd assume that's the plan you're looking at.

MR. ONO: I'd like to add, if the rules are set up, the repayment schedule would also be given some kind of priority. If it's priority, the rules are set up and the
people living in the immediate area have first crack at the revenues, but eventually, the repayment item would surface as a priority.

MR. LUCE: As a priority.

MR. ONO: After you've met some of the higher priority items, as to where it ranks, I really don't want to get into, venture a guess.

MR. LUCE: That sounds reasonable to me that the repayment would become a priority but what ranking would be determined. I intend to ask Mr. Phillips if he has more comments on this but --

MR. CHAIRMAN: Mr. Ono, I think Commissioner Comer has a question.

MR. LUCE: Thank you.

MS. COMER: I have a question, not for Mr. Ono, just a question in relation to the establishment of the rules and regulations. I'm wondering how much input we can receive from the people who have participated in arbitration, not in arbitration, in mediation, and the other people in the community in the establishment of these rules and regulations. Is that a possibility to set it up in such a way that we can get that kind of input? I think that would solve a lot of problems.

MR. CHAIRMAN: I think the Director should respond to that question.
MR. KANUHA: Commissioner Comer, I think the general statute that pertains to the adoption of rules and regulations provides for receiving a public hearing before adoption of those regulations.

MS. COMER: How about at promulgation?

MR. KANUHA: If that satisfies your concerns -- what you're asking is to establish a member whereby the community participates in the promulgation of the rules and regulations.

MS. COMER: That is correct, that is what I'm asking.

MR. KANUHA: In essence the hearing process for the development of the rules and regulations serves the same purposes as if you go out and develop rules and everybody has a chance to provide their input and in changes that are made. And that's standard, that's already provided for.

MS. COMER: Except that if the input comes before the promulgation of the rules, it may save a lot of time with people arguing about this is not what we wanted in the first place. If they're able to participate in the promulgating from the beginning and with a blank slate, if this is a possibility, it seems to me this may allay a number of fears that the community has that bureaucracy has again taken over.

MR. KANUHA: Let me say it is a possibility.

MR. CHAIRMAN: Any other questions for Sus Ono?

MR. LUCE: Mr. Chairman, I would think that, looking back at the states testimony here, did you refer to the

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possibility of the Hawaii County Council and the community or
community representatives might be involved in this
prioritization and rule making?

MR. ONO: The reference, the only reference that I can
recall is I think that the possibility was discussed at the
meeting with the Governor and his letter of August 16th does
say and I'll read from that letter:

"Implementation of this concept to benefit the
community should be managed by the county working with the
community groups." It's a stated position.

MR. LUCE: Okay, the last point was, at some point, and
this is very important to me, at some point in the process
that may or may not be in the no-more end category addressing
the concerns, good faith becomes very important.

We have you before us representing the Governor of the
State of Hawaii and to me you are calling on us to act or
accept your good faith comments regarding this geothermal
application, am I correct?

MR. ONO: Very definitely. We are asking for your,
well, at least trust in us, so that you can make your decision
accordingly.

VOICE: Yeah, right.

VOICE: Boc.

MR. ONO: Without that trust, that degree of trust both
ways, you know, because there are a lot of nails to be put in
place yet. But I'm sure it's going to mean a degree of trust both ways otherwise you'll never really be able to make a final determination.

MR. LUCE: Thank you. The Governor's representative before us asking for good faith. Thank you.

MR. CHAIRMAN: Director Kanuha.

MR. KANUHA: I have two questions. A follow up to what was just stated, a question that Commissioner Luce asked. Would you have a problem committing to the general concept that you're talking about in the form of a condition that could be attached to the permit. Would you have any objections to that?

MR. ONO: I'm sorry, I need to get a little bit of a clarification on the conditions, which condition were you referring to?

MR. KANUHA: Well, what I was stating was, you made several recommendations in regards to the state's conceptual commitment to the asset fund where the state's contribution would be coming from the HGP-A facility and also some long-term commitment that is not a part of this package, but to support, perhaps, the use of royalties. Do you have any objections to that concept and that concept being included in that kind of condition?

MR. ONO: No, I would not. Again, with the understanding that the package that was proposed this morning
is one thing. And the willingness to consider the royalty whatever, it would be considered relating to royalty, is kept as a separate matter to be discussed in the future, with that, I have no problem.

Mr. Kanuha: Another follow-up question. It is in the record relating to this application so I hope you can bear with me because I don't have the exact spot. Do you see a direct relationship between ending the operation of the HGP-A facility and the approval of the Ormat permit?

In other words, if there came a time, within days or weeks, that it became necessary for whatever reason necessary, health reasons, whatever, that this Commission or whatever means we have, felt that it was necessary to take action to discontinue and close down that facility, would the Administration object to that?

Mr. Ono: With the appropriate technical precautions being taken. We would still, I would certainly like to have the need or the requirements on the part of HELCO to be considered at least.

Mr. Kanuha: Do you see a tie between the operation of that plant and the approval of this permit?

Mr. Ono: No.

Mr. Kanuha: There is no tie?

Mr. Ono: You can do that any time that it is necessary. And if you need to shut down the powerplant,
assuming that you clear the way to shut down tomorrow, that
is no problem.

MR. KANUHA: But for you, from the point of view of the
state, you feel that these are two separate applications. The
existing plant and the application by Ormat?

MR. ONO: I would think so. The only connection, not
only, but one connection would be the sale of the HGP-A to
Ormat is something you should consider. They having the
powerplant, they can resell that resource.

MR. KANUHA: Can those negotiations continue, still
continue even though the plant was shut down?

MR. ONO: That is correct.

MR. CHAIRMAN: Any other questions for Mr. Ono?

MR. HOLT: I don't have a question for Mr. Ono, but in
relationship to what he just said, I wanted to ask Ron
Phillips of the PCC to come forward and respond. And is the,
Mr. Phillips, is the answer that Mr. Ono just gave us, as a
Commission, satisfactory to you as president of the PCC?

MR. PHILLIPS: At this point I would have to say, "no".
I hear what Mr. Ono is saying, but I guess I have a great deal
of skepticism at this point because what I have seen transpire
since the meeting with the Governor and what I have under-
stood, the chairman of the Commission, Duane Kanuha, we
basically heard the same thing. And the fact that there has
been some attempt made, if you will, on the part of the DLNR
in a smoke-filled room, I'm sure, to put together a set of conditions of which the community nor the county has participated in, leaves me with a great deal of skepticism. Thank you.

MR. HOLT: While you're here, I'd like to ask you one other question. There was a man named Robert, I don't have his last name, but he indicated that he lived within that 3500 foot area, close to the proposed well. And he indicated in his statement that PCC does not represent anyone directly affected. And I wondered if you could perhaps comment on that? I know that you represent a lot of associations in and around the Puna community. I'm not sure whether I took Robert's statement out of context or --

MR. PHILLIPS: No. What he was referring to was the Leilani Community Association at one time was a member of the Puna Council. And they elected, oh, I guess about a year ago, to withdraw. And so, I think that was what he made reference to. Unfortunately, they have not been a part of any of the geothermal round-table discussions nor have participated in any of the meetings of the community in review of the geothermal activities.

MR. HOLT: Okay, thank you very much.

MR. LUCE: Question for Mr. Phillips, Mr. Chairman.

MR. CHAIRMAN: Mr. Luce.

MR. LUCE: I appreciate your concern about the, shall
we call, it the evolving condition of the State of Hawaii with respect to this application? (no response) One of the Catch 22's kind of scenarios here is is that you mentioned DLNR meeting without community and county government input.

At this point in time, we have a good faith commitment to work towards the solutions which I think you would rather see in a word-for-word, signed condition at this point in time. The Catch 22 being that this application for that condition, you would be comfortable with, has to get evolved and that takes time.

But what we have right now is a good faith pledge from the Governor's representatives here. I appreciate your position on it. Am I correct in that Puna Community Council would feel more comfortable with a narrowly worded condition defining crossing the t's, dotting the i's, in exactly how it is worded?

MR. PHILLIPS: I think, Commissioner Luce, I think anybody would, I very much appreciate the comment, the question the Duane Kanuha asked because I think that's the first time the county has asked the state to commit to something and hopefully they won't be able to weasel their way out of it. That is what I would like.

I think with that kind of commitment, again, I would like to reiterate that the commitment that the Governor made to those of use who were at the meeting, we consider that a
sincere commitment. And the only thing we're saying is what happens when the chief hands something off to vested-interest bureaucrats, it may or may not come out the same way he intended.

Again, we're concerned that the system has to work. It has to be allowed to function. And the smoke-filled room meetings cannot take place. If they do, the whole thing just won't fly.

MR. LUCE: I believe the intent is to have the public process take place. Thank you. Thank you, Mr. Chairman.

MR. CHAIRMAN: Commissioners, any other questions?

MR. LUCE: I have a question for the applicant, Mr. Chairman.

MR. CHAIRMAN: Would Mr. Richard come forward.
Commissioner Luce.

MR. LUCE: Let me turn the page here. Rule 12, the famous Rule 12, Section 6, criteria for issuance of Geothermal Resource Permit. We've read through it many times within public hearing format and I'm sure all the Commissioners have read through it more times at home.

In 12-6-C, one of the, there's an (c), (b), and a (c), conditions. (a) is the reason for granting the permit; (b) is another reason for granting the permit and; (c) I want to focus on which states: "That there are reasonable measures available to mitigate the unreasonable adverse affects or
burdens referred to above." You're familiar with that?

MR. RICHARD: I think I'm familiar with it,
Commissioner, you know. Give it to me and I'll tell you.

MR. LUCE: "Criteria for Issuing a Geothermal Resource Permit. The Planning Commission shall grant a Geothermal Resource Permit if it finds that the applicant has demonstrated that:

"(a) Geothermal development activities would not have unreasonable health, environmental, socio-economic, affects" -- I'm leaving some out.

"(b) Those geothermal development activities would not unreasonable burden agencies and;

"(c) There are reasonable measure available to mitigate the unreasonable adverse affects or burdens referred to above."

What my question is for you, Maurice, is maybe you could take a minute to summarize for the Commission the reasonable measures available to mitigate any, possibly, unreasonable adverse impacts.

I'm talking about what emissions, I'm referring back to the 49 conditions proposed by the Planning Department with the 50th one under discussion. I think they have conditions for emission, noise, -- are you complying with 12-6 (c)?

MR. RICHARD: In brief, yes. I believe this project from its inception, particularly after the date of acquisition
by Ormat, reviewed all of the environmental objectives, reviewed all the rules and statutes for the State of Hawaii, for the state and the county. I think from Mr. Luciano Bronicki who is the CEO and chairman of the company, to the president of Ormat Energy Systems to our engineering department reviewed in very careful detail, what was needed to make this project happen.

We carefully reviewed the hydrology, the air characteristics, the socio-economics and the land position. We reviewed the technical aspects of developing the project from well siting to drilling programs.

We've spent an extensive amount of effort and monies with world renowned geo-technical firms such as Geothermex from Berkeley, reviewing all of this data and produced a new project which, in essence, takes the energy from the ground and reinjects it back into the ground with a cooler fluid with a minimal amount of environmental impact using air cooling and a binary system combined with a back-pressure turbine system.

This was also accomplished in cooperation with or in the thinking of the liability requirements that we were bound by as far as an energy contract which was already consummated between Thermal Power and HELCO. And to which we had to further make some commitments in terms of repayments to insure HELCO we would be there when the power was needed.

We further entered into the mediation process in good
conscientious. And I, personally, have learned a lot in the process. I believe that I have developed some relationships with the people that are closely affected by this. I think I personally relate to some of the issues that these people and somewhat even, possibly, have gotten too personally involved.

Having said all this, we did enter into some negotiations in mediation and agreed to some concepts. And this mediation which was, I believe, nearly duplicated by the Planning Department is reflected in the conditions and we, to which we have agreed to as the permit conditions by the Planning Department.

Having said all that, we are prepared to live up to those commitments and those pledges for those commitments. I hope that answers your question.

MR. LUCE: Yes, it does, thank you. You have heard some discussion with the State of Hawaii, with the Planning Director, some of the Commissioners regarding the establishment of an asset fund. You made a statement that the applicant would fix amount of contributions and a payment schedule.

There's been some discussion about, and the state has concurred that they're comfortable with, committing their conceptual agreements for participation to a condition to, I believe, the Director intended it to attach to this permit. Are you comfortable with the state's position and a condition
involving the state being attached to this permit?

MR. RICHARD: Let me draw back to the latter part of your statement and that is that: one, we were a party to the concept of an asset fund and we have concurred all along that an asset fund was needed. We have concurred all along that there was a sharing of responsibility between the state and the developers, between the geothermal venture.

We stick by that commitment and I believe that we are prepared to accept the responsibility that the next asset fund will exist within the framework of the investment that we're willing to make within that asset fund.

And therefore, we believe that there are essentially two agreements here, we and the state. And the state is going to have to stand on their own commitment as we are prepared to stand on our own commitment.

MR. LUCE: So with respect to a commitment on the state being formulated into a condition and being attached as number 50, number 51, to this permit application, you would be comfortable with that?

MR. RICHARD: I am comfortable with that as long as the condition is reflective of what I just said.

MR. CHAIRMAN: Any other questions from the Commissioners for Mr. Richard?

MR. NAKANO: Mr. Chairman.

MR. CHAIRMAN: Rodney. Just for the record, I'd like
for you to know that we've received some written
communications from David Laughlin and we have also received
communications from the Department of Land and Natural
Resources and I just wanted to make note of that so it will be
on the record.

MR. CHAIRMAN: Commissioners, are there any questions
on this memorandum from the DLNR?

MS. COMER: Mr. Chairman.

MR. CHAIRMAN: Commissioner Comer.

MS. COMER: Is it in order to move that this hearing be
closed?

MR. CHAIRMAN: Yes, it is in order.

MS. COMER: I so move.

MR. LUCE: Question, Mr. Chairman, and question the
motion.

MR. CHAIRMAN: Being there is no second, yes, you may.

MR. LUCE: Is it the intention of the Commission or the
Department to try to embody Sus Ono's willingness to see this
state's contribution to an asset fund worded into a condition
today?

MR. CHAIRMAN: I'll have the Director answer that.

MR. KANUHA: First, maybe Fred can clarify something.

If the meeting were closed, can wording for the proposed
condition still be ascertained or must that be done prior to
the hearing being closed?
MR. GIANNINI: I think it should be done prior to the
the hearing being closed.

MS. COMER: Okay, I'll wait on my motion.

MR. CHAIRMAN: Motion is withdrawn.

MR. ISHIMARU: Mr. Chairman.

MR. CHAIRMAN: Excuse me, Ms. Stone do you have a
question? Just ask it from there, we're not taking any
testimony.

MS. STONE: Do you think this volcano, a live volcano
heritage is more than any person is going to receive at the
expense of our live volcano and at the expense of the tax
payers?

MR. CHAIRMAN: Well, since you did mention live, I can
honestly say, "no". Motion was withdrawn, Commissioner
Ishimaru, did you have something?

MR. ISHIMARU: Is there room for a motion now on
Mr. Ono's commitment?

MR. CHAIRMAN: Mr. Director.

MR. KANUHA: The applicant, I think all of you have a
copy of the applicant's statement that they dropped off today.
And as we are aware the applicant has proposed an additional
condition that has been drafted by the applicant and attached
to this Geothermal Resource Permit.

And, essentially, this condition as proposed by the
applicant would be substituted in place of condition number
50. I have taken the liberty during the discussion going on, with regard to the role of the state and the state's involvement in the asset fund, and the Department's position is two fold. At this point in time, our position is we have a recommendation on the table with essentially 50 conditions. The applicant has proposed an additional condition which would take the place of item number 50.

The Commission Chairman and myself have been working very hard to try and see if there was any kind of middle ground that we could come up with to address the kinds of concerns the Chairman had raised at our last meeting and which caused the continuation of this hearing.

So, at this time, I would like to pass out proposed language which is a first crack in trying to integrate the kind of commitment that the state feels that they are willing to make for this permit. Again, this was prepared in anticipation of some role for the state with the format on a position that Ormat has presented.

However, given the kinds of concerns having been raised on the kinds of specifics on how the asset fund will be processed, how the asset fund will be administered, this recommendation is one that I would make to you strictly for discussion purposes. I want you to understand that because the kinds of information that came out today, I cannot recommend that you stand specifically on the language that is
in here. It is strictly for discussion and where you want to

go with it, I think it's up to the Commission from this point.

However, let me read this into the record because,

again, this condition is a summary of concerns having evolved

over the meetings and I do have some specific changes to it

that I would like to note for your consideration. And after

that I think it's at the Commissions pleasure to determine

whatever they want to do with this proposal.

First of all, my recommendation would be to maintain

all 50 conditions. And if this wording is acceptable or the

concept is acceptable to the Commission, then I would

recommend that you proceed with this condition with it being

an addition condition, condition number 51.

With that in mind, I would like to read it into the

record and I'm going to read it with the changes that I feel

reflect more accurately the kinds of concerns that you folks

want to address.

"Condition 51, that prior to the issuance of the first

building/construction permit under this Geothermal Resource

Permit by" delete either --

MR. LUCE: Delete what?

MR. KANUHA: Delete "the state" no, delete "by the

County of Hawaii." "The State of Hawaii and the permittee

shall each contribute towards the geothermal asset fund or

other appropriate existing fund for the purposes of geothermal
impact mitigation efforts within the District of Puna.

"The Permittee's initial contribution to the fund shall be in the sum of $60,000 due within 30 days after the effective date of this GRP permit and an annual sum of $50,000 due on or before the anniversary date of the GRP permit over a period of eight consecutive years thereafter for a total of $460,000.

"Annual contributions thereafter shall be determined", delete "by a percentage of royalties agreement," "between the Permittee and the State of Hawaii or $50,000 annually whichever is greater.

The state's initial, annual contribution to the geothermal asset fund shall be the net revenue derived from the resources generated by the HGP-A well or a similar amount from other state funding sources less any allocations/entitlement to the Office of Hawaiian Affairs. In the event --


MR. KANUHA: "enabling legislation" --

MS. STONE: You're talking about killing my volcano. I object.

MR. KANUHA: "Provides for a percentage of the state's geothermal royalties to be allocated to the county" add --

(Two people speaking at once.)
MS. STONE: I object again.

MR. KANUHA: "upon the concurrence of the County Council, said royalties may also be deposited to the fund.

(Two people speaking at once.)

"The administration and expenditure of assets from the geothermal asset fund shall be in accordance with rules, regulations and procedures developed for that purpose by the county in accordance", that is an addition, "in accordance with Chapter 91, HRS.

"And with the participation of Puna residents or designated representatives thereof which shall include", continuing on, "which shall include but not be limited to provisions and criteria to enable the first priority of the distribution for temporary or permanent relocation of those property owners within a 3,500-foot radius of any facility permitted by this GRP who are found in accordance with criteria" this is an addition, "in accordance with criteria established in the rules to be adversely impacted by activities authorized provided that such relief is applied for within a period of one year after the commencement of full powerplant operations.

"The priority list of impact mitigation projects shall be established by the County Council in conjunction with Puna residents or designated representative thereof with the exception of upgrading existing subdivisions in the Puna
District to current subdivision standards and specifications of the County of Hawaii.

"Should any other districts of the County of Hawaii be proved to be negatively impacted by the activities authorized under this or any other subsequent GRP that district shall receive a pro-rata share of the fund assets as determined by the County Council with expenditures to follow a prioritized schedule determined and outlined above.

"The rights granted to the Permittee shall not be conditioned upon any contribution or further participation by the state in the fund nor with respect to the regulation, management, and operation of the fund other than set forth above."

Now, again Mr. Chairman, you can see going through this that it has language that comes almost directly out of the testimony of the state. And it does appear to address the issue of including a commitment by the state into that of the petitioners.

Again, it's difficult to structure this kind of a condition without having a real specific component of how this asset fund is going to work. And for that reason, again, this recommendation is strictly for discussion purposes. I would be hesitant to provide my recommendation that this condition be incorporated exactly the way it is. I think I tried to give you some guidance on what kind of condition can be
structured. But I think the final decision as to how you want to handle this is up to you.

MR. CHAIRMAN: Mr. Luce.

MR. LUCE: Thank you, Mr. Chairman. Thank you for your efforts, Mr. Director. I think the language toward the end of this proposed for discussion condition 51 where it refers to, "should any other districts of the County of Hawaii be proved to be negatively impacted", that's an attempt as some far-sightedness should other geothermal projects come on-line.

In other words, this asset fund could then be used should there be other geothermal projects that may have utility lines passing through other districts or a different resource, or for whatever reason. That's kind of the intent of that?

MR. KANUHA: If the rules developed for this asset fund provide for that, for that criteria, that was the intent of that language.

MS. COMER: Can I ask a question?

MR. CHAIRMAN: Will you speak into the mic.

MR. COMER: There is one provision in here it says, "facility", bla, bla, bla, "adversely impact by activities authorized provided that such relief is applied for within one year after the commencement." What if something happens more than one year after commencement? Is that absolutely necessary to have that in there?
MR. KANUHA: No.

MS. COMER: Could that be done at any time the impact, just eliminate that "provided that such relief" etc., etc?

MR. KANUHA: Again, the rational for that language is to look out for construction so, it's one year after the commencement of this full powerplant operation.

You know, I just felt that people should have a fixed period of time for someone to say, you know, "I've been wronged" rather than leave it open ended. But there's nothing magic about one year. It could be for two years, it could be for five years, it could be not in there.

MS. COMER: The reason I asked is that it appears that the fund is going to be created in perpetuity and if they could only request mitigation or help within one year, what is the purpose of having the fund perpetuated then, forever?

MR. KANUHA: Again, Commissioner Comer, that's for purely discussion.

MS. COMER: Yeah, that's the point I wanted to make.

MR. LUCE: Although the commencement of full powerplant that's something that evolved "full powerplant operation" that indicates completion of any drilling work.

MS. COMER: No, but it would be after the powerplant is in operation somebody could feel wronged.

MR. HOLT: Gentlemen, I have two concerns. One is this 3500 foot radius of the facility and when we heard an earlier
testimony, I think it was Herbert Ritke that indicated to us that he lived 6900 feet away and was still impacted. And we really don't know, we know based on that figure an incident from HGP-A that there were many, many others.

And I think that 3500-foot radius in which, be classified as, perhaps, a starting number, arbitrate or whatever you want to use. I'm a little bit concerned about that. I'm also concerned about the fact, and Russell Kokubun mentioned this, is that our decisions are going to have a long lasting impacts. And I don't think that we, out of necessity, have to really rush into this. Although, I realize that we have some severe time restraints that we have do deal with.

But I think writing a condition such as this would require perhaps a little bit more, a little bit more time. And I appreciate the Director's attempt to give us something we can at least use for a discussion.

But, again, this is, was brought out earlier, we need some clear-cut guidelines for this asset fund and because we're making a decision here that is going to effect this entire island, not only the residents directly affected in Puna. I think that "we need to get the thing right." And that's a quote from Chairman Mizuno at our last meeting.

And whether getting it right means that we need to take more time, I'd rather take more time and get it right then rush into something and say, "Hey, two years ago we goofed,
but it's water under the bridge, we can't do anything about it now."

And I know that there are many communities on the mainland who wish that they had taken more of a direct approach or were more directly concerned about what was going on right across the street from them, until 10 years later when all of a sudden these environmental impacts hit them and they say, "Hey, you know, we really should have done something about that."

MR. GIANNINI: I just need to remind you, when you talk about taking more time, you don't have very much time. The six-month deadline is September 25th and you cannot go beyond that deadline without an agreement from the applicant. That's in the rules. I just wanted to get that on the record and make sure that was very clear to everyone.

MS. COMER: Mr. Chairman, I have a question for Corporation Counsel. If we were to close the hearing at this point in time, now that this has been introduced into the record, could we then discuss and amend and work on the wording of this at a later date? Or must this be done immediately, now, tonight when we're all half asleep?

MR. GIANNINI: Well, the latest, it might be possible to put it off till tomorrow, but certainly no later than tomorrow. Because we have the meeting going here. Notice was given for this. We have a September, actually this is,
the 180 days runs out on September 24th which is a Sunday, so
it runs out on September 25th. That's the deadline by which
the decision has to be made. Unless the applicant agrees to
make a, to give us an extension of that deadline.

We cannot go beyond September 25th and I might point
out that I believe that it is impossible to have a meeting
before September 25th and give adequate notice of it. So
you're talking about today or tomorrow.

MS. COMER: I'm talking about the wording of the
particular item. They have to be settled right now?

MR. GIANNINI: They have to be settled right now, yes.

MS. COMER: What do we do now, what now?

MR. GIANNINI: If you want to, you may close the
hearing. You can take more testimony and keep the hearing
open and then close and vote on it. But what I'm telling
you is, your decision, we've pushed it almost to the very
limit that the state wants.

MS. COMER: We can close it?

MR. GIANNINI: You can close it, yes.

VOICE: Ask for an extension.

MR. GIANNINI: You can ask for an extension.

VOICE: Yea, there you go.

MR. LUCE: Mr. Chairman.

MR. CHAIRMAN: Mr. Luce.

MR. LUCE: In addressing Mr. Holt's concerns, your
comments recall to mind, my mind, the provisions in Rule 12 for remedying Geothermal Resource Permits where the applicant is not complying with any of the 49 or 50 or 51 conditions that I think fall under Rule 12. Mr. Chairman, I need to go down the hall, may we have a short break?

MR. CHAIRMAN: We'll take a five-minute break.

(A short recess was taken.)

MR. CHAIRMAN: Meeting will come back to order. Before proceeding any further, I'd like to ask the Director to explain all of the options available at this point to the Commissioners and all else concerned.

MR. KANUHA: Mr. Chairman, the Commissions options are, they can continue the public hearing with the concurrence of the applicant because of the extension, because the time frame in which this permit has to be determined will run out on the 25th. And according to the Commission Rules, there's inadequate time to post notice and have another hearing before that date.

The Planning Commission can also close the public hearing. Once they close the public hearing there will be no further input with regards to any items that the Commission may consider. And at this point in time, there are, there's a recommendation with 50 conditions. There's a proposed condition language from the applicant. And then there's proposed condition language that I just recently provided
you.

I believe that's all the options that the Commission has or if the Commission does close the public hearing, the Commissioners, themselves, can also submit additional recommendations for all the Commissioners consideration.

MR. CHAIRMAN: Commissioner Comer.

MS. COMER: If we were to want to change strictly words in item 51, would this have to be done item, by item, by item? Or how do we proceed?

MR. KANUHA: Perhaps Fred should respond to that.

MR. GIANNINI: If you feel you've taken enough evidence, you can close the hearing and still work on the conditions.

But remember once you close the hearing, you can't ask anyone out there for any more evidence. You've stopped the evidence. Okay, the only thing that you might be able to do is ask the applicant if he is willing to agree to a continuance.

MS. COMER: We would be able to ask the applicant --

MR. GIANNINI: Only that point, only that point, if you close the hearing. But you couldn't ask him for substantive testimony.

MS. COMER: If we close the hearing, can we ask the applicant, at that point in time, if they would agree to this item 51 as proposed by the Director?
MR. GIANNINI: No, I'd rather, you should ask for his comment on that item before you close the hearing.

MR. LUCE: Mr. Chairman.

MR. CHAIRMAN: Mr. Luce.

MR. LUCE: Prior to moving to close the public hearing, I have a couple of questions regarding this language for a proposed condition 51. One question is for the applicant and one question is for the state.

On the first page after the language that says, "the total of $460,000," proposed language states, "annual contributions thereafter", that's from the applicant, "shall be determined between the Permittee and the State of Hawaii or $50,000 annually whichever is greater."

This, I think, would seem to indicate contributions beyond the eight year time frame, am I correct?

MR. CHAIRMAN: That's correct.

MR. LUCE: I'd like to ask the applicant to comment on that.

MR. CHAIRMAN: Mr. Richard, please come to the microphone.

MR. RICHARD: We'll accept the wording as is on that sentence.

MR. LUCE: Thank you. The next sentence, "The state's initial/annual contribution to the geothermal asset fund shall be the net revenues derived from the resources generated by
the HGP-A well or a similar amount from other state funding sources less any allocations/entitlement to the Office of Hawaiian Affairs."

A question for the state, this doesn't seem to address either a provision for annual contributions as you discussed nor a provision of the concept pay back being put on the priority list. Oh, I see the "state's initial/annual" that's where I'm confused at initial and annual. The "state's initial/annual contribution." Would you like to comment on that annual contribution and also pay conditions being part of the priority list?

MR. ONO: Yes, the "initial/annual contribution" I expect this means funds coming from the HGP-A resource, sale of the HGP-A resource and that would be, again, a continuous contribution to the asset fund.

And if there is no revenues to be derived from the HGP-A resource, what we're advocating is we would be willing to have other sources of funds, in a one-shot deal, put up-front, deposit the money into the account with that one condition. If, in the future, HGP-A well from the resource becomes revenue producing, we would like to have the account that paid for the up-front contribution, paid back.

But as for the pay-back schedule, we would be willing to have the priorities set by the people who are going to set up the rules.
MS. COMER: Would that be taken care of with rules and regulations or do you propose that that be included in this 51? Previously, I think you said it could be handled with rules and reg's.

MR. ONO: Yes, as long as the intent is to get it out. Whether it's here or under the rules, one place or the other, we'd like to see that covered.

The other comment I'd like to make is after the phrase, "entitlement to the Office of Hawaiian Affairs", I'd like to add another phrase to that, "and operating and maintenance costs" to cover maintenance and operational costs from the HGP-A resource.

MR. LUCE: It seems that all the concerns you have made are things that we've discussed about at length previously. I don't think they're anything new.

MR. ONO: No, I just wanted to have that recorded.

MR. LUCE: Translating that into condition language is a challenge, perhaps the repayment provisions --

MS. COMER: That can be addressed under rules and reg's.

(Three people speaking at once.)

MR. ONO: I have a statement in here stating that that particular item shall be addressed in any rules. As long as the intent is there and is covered someplace.

MR. LUCE: Okay, Mr. Chairman and fellow Commissioners,
thank you, Mr. Ono.

MR. ONO: Okay, thank you.

MR. LUCE: I'm going to propose three small modifications to this prior to moving to close the public hearing, for your consideration. One would be, and perhaps the Director could help me with this, (no response) towards the end, this is proposed language for a proposed condition 51. At the bottom of Page 1:

"The administration and expenditure of assets from the geothermal asset fund shall be in accordance with rules, regulations and procedures" including a provision for repayment, "including a provision for repayment of asset fund by future net revenues developed for that purpose by the county in accordance with Chapter 91, HRS, with participation of Puna residents or representatives thereof."

Item two, as determined by the Hawaii County Council.

"The representatives thereof are determined by the Hawaii County Council." The third and final language change I propose addresses Commissioner Comer's concern of an one-year time period.

I guess the sentence begins on the previous page. We've modified, instead of saying, "that such relief is applied for within a period of one year after the commencement of full powerplant operations" would be, "within a period of one year from the time the claimant knew or should have
known of his or her adverse impact."

Let me repeat that. Let me repeat the three of them.

I'm asking to add towards the bottom of Page 1 of the proposed language for condition 51, after "rules, regulations and procedures" including -- I have to remember my same words here -- "including a provision for future pay-back of asset fund from future net revenues."

Right at the bottom where the Director offered to change Chapter 91, HRS, "and with participation of Puna residents or designated representatives thereof as determined by the Hawaii County Council."

And the final one, "provided that such relief is applied for within a period of one year" --

MS. COMER: I would like to see a period after "authorized."

MR. LUCE: Let me finish my sentence please. "One year from the time the claimant knew of his or her adverse impact." In other words, when they get impacted, they have a year to file a claim rather than 10 years later say, "I was impacted 10 years ago." Mr. Chairman, would you like me to do that one more time or is that pretty clear?

Three changes. One, a provision for pay-backs for Mr. Ono; two, the representatives of the Puna community and other individuals as determined by the Hawaii County Council, what community associations or community council's they
recognize and; three, is for filing a claim within one year after impact. I'll put that on the table for discussion, for language for condition 51.

MR. HOLT: Commissioner Luce, although this does not fall directly in the three items you mentioned, are you, based on the testimony today, plus the other hearings that we had, are you happy with the 3500-foot radius?

MR. LUCE: I've been searching, Commissioner Holt, for a better way than 3500 feet when it comes to not only noise but emissions, visual impacts, that kind of thing --

VOICE: Ten miles like California.

MR. LUCE: I have not been able to come up with one starting point better then that.

MS. COMER: May I ask a question?

MR. LUCE: I would think that Rule 12 allows for an adoption of the 3500-feet condition. And also it may be possible, and I'm sure that the applicant has indicated in both the mediation and in sworn, written statements that he is willing to work on a case-by-case basis outside of that range. So, it seems to be a good starting point with that element, again, that Mr. Ono was up here, that element of good faith as sworn to by the applicants.

MR. HOLT: This good faith item is something that in your business you would agree to?

(Several people speaking at once.)
MR. CHAIRMAN: Excuse me, order, order. Commissioner Comer, could you give Mr. Luce a chance to answer that.

MR. LUCE: Yes, because the nature of my business involves unknowns. The contracts I sign often include conditions and compensations to be determined in the future because in dealing with hurt, you have unknowns. It's not like a steel building or 2-by-4's, so, yes.

MR. HOLT: Every business has its unknowns but I think this is not a time for flawed decision making or hurried decision making.

And I would ask Mr. Richard if he would agree to a time extension so that these things can be hammered out in a reasonable, unhurried way. As compared to doing it here at 6 o'clock in the evening where I'm not real sure, and I have the same paper that you have, and I'm not real sure until I have it pretty much in black and white, that I'm going to be happy with it.

MR. ISHIMARU: Mr. Chairman.

MR. CHAIRMAN: Commissioner Ishimaru.

MR. ISHIMARU: Commissioner Holt asked for a time extension. Could that be done, the time extension, by the end of this month, is that right?

MR. CHAIRMAN: No, Commissioner Holt, I guess he suggested that we ask the applicant if they would be agreeable to a time extension.
MR. ISHIMARU: Oh, the applicant.

MR. HOLT: We have to ask the applicant.

MR. GIANNINI: You must ask the applicant to get a continuation beyond the six months.

MR. ISHIMARU: What was the extension?

MR. GIANNINI: That's an extension, I'm sorry.

MR. ISHIMARU: The continuation and the extension is the same thing.

MR. GIANNINI: Yeah --

MS. COMER: Mr. Chairman.

MR. GIANNINI: Excuse me. The statute and the rules said that a permit, that an action must be taken on the application within six months of the filing of the application and that six-month deadline is September 25th. We cannot extend beyond that deadline without concurrence of the applicant.

MR. ISHIMARU: Consent on their portion.

MR. GIANNINI: Yeah, of the applicant.

MR. ISHIMARU: Extension on recommendations?

MR. GIANNINI: Well, I think that we should be concerned, I think what Mr. Holt was talking about is an extension beyond the six-month deadline, correct.

MR. HOLT: That is correct.

MR. GIANNINI: Okay, just wanted to make sure.

MS. COMER: I just have one question here in that same
area, on the 3500-foot radius. This rules and regulations are to be promulgated, is it required that the finite items be included in this condition? Can we not just strike "within a 3500-foot radius of any facility permitted by this GRP" and have it read, "temporary or permanent relocation of those property owners who are found to adversely impacted by the activities authorized provided that such relief is applied for within one year."

And then with the rules and regulations as they are promulgated, they'll spell out the distance from, if that is required, spell it out. We do not have to have any here, do we?

MR. CHAIRMAN: But it would be a guideline for the rules. So, I don't think if it's put into or taken out now, which sounds all right --

MS. COMER: Then we're stuck with 3500.

MR. CHAIRMAN: Well, I don't think they'll be able to fix it while making the rules because they are going to have to follow the guidelines and conditions.

MS. COMER: That's right. So, if we take it out now, they don't have that particular guideline and they could say 6,000, ten miles, or 50 feet or whatever they want to say in the rules and reg's.

MR. LUCE: One other question regarding this, I have not objections to eliminating that 3500-foot designation, but
this proposed condition 51 is prior to the issuance of the first building/construction permit. We have to keep in mind the concept that promulgation of rules that you're talking about, Commissioner, would take place before any activity. First building or construction permit means grubbing, drilling --

MS. COMER: Sure, I could live with that. But I think for us to be so stringent in the 50 items that there is no room for movement with rules and regulations with which the community is going to be involved, we're over stepping our bounds there. We should provide, raw, general guidelines and and then go to the more strict rules and reg's at a later point in time.

MR. LUCE: Okay, so the way I read this proposed language, I need a handle on what has to happen before the first building/construction permit.

"Prior to the issuance of the first building/construction permit under this Geothermal Resource Permit, the County of Hawaii, the State of Hawaii and the Permittee shall each contribute towards the geothermal asset fund or other appropriate existing fund for the purposes of geothermal impact mitigation efforts within the District of Puna."

The way I understand this language for Rule 51 is that once the county, the state, and the permittee make a contribution to the fund, the first building or construction
permit may be issued, activity may occur while these rules
and reg's are being promulgated, am I correct in understanding
that?

The first sentence, "prior to the issuance of the first
building/construction permit under this GRP's, the county,
state and permittee shall contribute to a geothermal asset
fund." Period.

MS. COMER: That has nothing to do with it.

MR. LUCE: Once that contribution to the asset fund
has taken place, as in the first sentence, may the first
building or construction permit be issued? That's what it
says right in front of me.

MS. COMER: That's what it says.

MR. LUCE: Is everyone clear on that?

MS. COMER: Yes.

MR. LUCE: Once the contribution is in, the permits may
be issued and the rules and reg's can be promulgated there-
after.

MS. COMER: People are going to be impacted after
construction begins anyway.

MR. KANUHA: Mr. Chairman, I think there is half a
motion on the floor that wasn't seconded. I think there is
also a request to ask the petitioner whether or not he agrees
to an extension. I'd kind of like to, you know, keep up with
where everybody is right now.
MR. POY: Mr. Chairman.

MR. CHAIRMAN: As the Director, I believe the motion, the initial motion was withdrawn. I'm not sure whether Commissioner Holt requested that we ask the applicant if he would be agreeable to an extension.

MR. HOLT: I will do so now, if that's permissible to the Chairman.

MR. LUCE: Mr. Chairman, discussion.

MR. CHAIRMAN: Discussion on what?

MR. LUCE: The necessity of asking the applicant to extend the hearing. I think we have proposed language for condition number 51. It's been modified to include reference to repayments to the asset fund.

It's been modified to delete the 3500-foot radius reference. It's been modified to say that representatives of the Puna community are to be determined by the Hawaii County Council. And it's been modified to say that the one-year filing period for a claim for impact is one year after, within one year after the impact occurred.

MR. CHAIRMAN: According to the parliamentary procedure Commissioner Holt, would you like to make your request into a motion?

MR. HOLT: Yes, I would.

MR. CHAIRMAN: So, it is so moved that we ask the applicant to if he would be agreeable to an extension of,
could you be a little bit more specific on the extension.

MR. HOLT: As we have done in the past, most extensions have gone from one meeting to the next. And if my calendar is correct --

MR. CHAIRMAN: October the 10th is our next meeting.

MR. HOLT: -- it would be October the 10th. And that's based upon what has happened previously.

MR. CHAIRMAN: Is there a second to Commissioner Holt's motion?

MS. BUSH: I will second.

MR. CHAIRMAN: It has been moved and seconded that we ask the applicant if they would be agreeable to a continuation of this public hearing until October 10, 1989. Discussion?

Commissioner Luce.

MR. LUCE: I think we moved forward with the proposed language for condition 51 with the four revisions. I don't think that to query the applicant if he is willing to extend to October 10 the 180-day deadline is necessary. And I am prepared to move forward with the closing of the public hearing and conditions 1 through 51.

MR. CHAIRMAN: Any further discussion?

MR. HOLT: Chairman Mizuno, I realize Commissioner Luce's position on item number 51. I would also like to reiterate the fact that because this decision is such a far-reaching decision, I want, I want every commissioner to
perhaps reflect for just a minute on the things that have
transpired in all of these hearings and know all of us
including, with all due respect, Mr. Richard running out of
patience, the old sign on the sail, "Out of wind, out of
patience, out of here", that kind of thing.

But, I do not, again, think this is the time for
hasty decisions. Now, I realize that some of the
Commissioners may not feel that this is done in haste, with
all due respect, so be it. If we have a motion and a
second, it's back to you, Mr. Chairman.

MR. CHAIRMAN: Any other discussion on the motion?

MR. LUCE: I agree, Commissioner Holt, I don't think
this has been done with haste.

MR. CHAIRMAN: Any further discussion? (No response)
If not, I'd like to have roll call on this motion.

MS. ComER: The motion again, repeat.

MR. CHAIRMAN: The motion is that we ask the applicant
if they would be willing to extend this public hearing to
October 10, 1989.

MR. GIANNINI: Excuse me, I believe what he moved for
was whether or not the applicant, pursuant to Rule 12, would
be agreeable to an extension of the six-month deadline to the
October 10th, to be on the October 10, 1989 meeting, okay.

MR. CHAIRMAN: I stand corrected.

MR. LUCE: The motion is to ask him.
MR. CHAIRMAN: Any further discussion? (No response)

Roll call.

COMMISSIONER HOLT: Aye.
COMMISSIONER BUSH: Aye.
COMMISSIONER COMER: Nay.
COMMISSIONER FUJIMOTO: No.
COMMISSIONER ISHIMARU: No.
COMMISSIONER LUCE: No.
COMMISSIONER POY: No.
COMMISSIONER SANCHEZ: No.
CHAIRMAN MIZUNO: Aye.
MR. NAKANO: Mr. Chairman, the motion is defeated.
MR. CHAIRMAN: The motion has been defeated. We will not be asking the applicant if they would be agreeable to an extension.

MR. LUCE: Mr. Chairman.
MR. FUJIMOTO: Mr. Chairman, I move that the hearing be closed.

MR. LUCE: Second.
MR. KOKUBUN: Mr. Chairman, if I could just ask a question concerning clarification of proposed condition number 51?

MR. CHAIRMAN: Come forward, Russell.

MR. K KUBUN: Thank you, Mr. Chairman and members. I, in reading the proposed condition number 51, there is language
included that mandates certain actions by the County Council.
And I would ask Corporation Counsel to render an opinion as to
whether or not the Planning Commission is able to mandate any-
thing of the County Council?

MR. GIANNINI: I don't believe the Planning Commission
can order the County Council to do anything. They can suggest
that they do it.

MR. KOKUBUN: There's language in there that mandates --

MR. GIANNINI: I know, yes. I think that --

MS. COMER: We can just take that out.

MR. GIANNINI: We probably should create an alternative
to that.

MR. KOKUBUN: In that area also, Mr. Chairman, I would
ask that there be clarification in terms of the rules,
regulations and procedure developed for that purpose by the
county.

Who would be responsible for developing and holding
the hearings, etc., for those rules, regulations and
procedures, if the Council was to be the determining body?
(No response) Those are my questions. Thank you,
Mr. Chairman.

MR. CHAIRMAN: We allowed Councilman Kokubun to
intervene at this time because he is a representative of the
Council also. Excuse me, Rodney, could you ask --

MR. GIANNINI: Get the statement from him.
MR. CHAIRMAN: -- him to give the statement to you and bring it to me.

MR. LUCE: Mr. Chairman.

MR. CHAIRMAN: Commissioner Luce.

MR. LUCE: Question for the Councilman from Puna.

MR. CHAIRMAN: Russell.

MR. LUCE: Russell, I may have mistakenly assumed that the Hawaii County Council would be willing to work with the community in Puna, as we've been talking about, to be in the receipt of a large sum of funds. And to prioritize impact compensation, both individual and community, to include in a priority list a contingency for repayment, as Sus Ono has put out.

Am I mistaken in assuming that that's the function of locally-elected county government would not readily, eagerly, take that roll to work with the community to see that the impacts are addressed and that the community can get inter-structural improvements?

MR. KOKUBUN: I think it's a safe assumption, Commissioner Luce, but what I'm concerned about is the way it's worded in the condition. If, in fact, the Commission is able to mandate responsibilities to the County Council, in this particular condition, then there is nothing to preclude that from being precedence in other conditions, in other types of decisions that the body makes. And that's my concern.
I should also say that I'm not speaking on behalf of the Council. And if, in fact, the Council were being asked to make these kinds of decisions, that body should respond as a body.

My feeling is, as a Councilman from Puna, I certainly would like to see some sort of mitigation be done for the residents, if the permit is approved. And I think it's only right that the residents play a part in that determination.

If the body feels that the Council is, perhaps, the appropriate body, so be it. But I don't think it can be mandated. And, again, I think you would need concurrence from the body prior to issuing.

MR. LUCE: So, you do not object, you do not have a concern about the concept of local governments working with local community -- your problem is not with the concept, it's with the wording as presented here?

MR. KOKUBUN: That is correct. And again though, I think if other Council members wanted to comment on this, as individuals, they should be given that opportunity to do so. If you would like to see the Council as a body respond to this condition, that can also be done. Obviously, not today, but I think that can be done.

MS. CORNER: If the word "council" were eliminated and it just reads, "developed for that purpose by the county" etc., etc., and leave out the word "council", would that
then just leave it open as what agency would promulgate the rules and reg's.

MR. KOKUBUN: I think as a Councilman it would relieve my concerns, but would it relieve the concerns of the citizens who would want to know what body was going to make that determination? I think that needs to be clarified.

MR. LUCE: In other words, instead of referencing the Hawaii County Council, we would reference the Hawaii County.

MS. COMER: Just Hawaii County period and leave it up to --

MR. CHAIRMAN: Commissioner Comer, please try to speak when you are addressed because we cannot have three people speaking at one time. The court reporter can only take down one person at a time.

MS. COMER: I would suggest that we eliminate the word "council" and leave it open as to which agency would promulgate the rules and regulations. In other words, it would read, "rules, regulations and procedures developed by the county" and the other line would, I can't write, so I didn't get it all down. But the line would be included in the promulgation of the rules. Just eliminate the word "council."

MR. KOKUBUN: Are you asking me for comments on that or may I respond to that?

MR. CHAIRMAN: You may.

MR. KOKUBUN: Mr. Chairman, I think that we're getting
a little vague on that and I think we need to establish, if
that is the feeling in the sense of the body, you need to
establish whose going to make that decision. There has to be
some kind of comfort level, again, established not only for
the applicant but for the residents as well.

MR. CHAIRMAN: All right. I'm going to read a
statement from Greg Pommerenk that: "He believes that what we
are doing now is the problem. We are making decisions with
no community input." And that was quote from Greg Pommerenk.

MR. CHAIRMAN: Commissioners --

MR. LUCE: So the public hearing is still open,
Mr. Chairman, but reference to the Hawaii County Council, I
believe appears twice in this proposed language for Rule 51.

One, was my insertion in determining representatives,
in determining representatives from the Puna community. And I
see it appears again on Page 2 where it says, "the priority
list of impact mitigation projects shall be established by
the County Council."

And it appears a third time at the bottom of Page 2
where it says, "that district shall receive a pro-rata share
of the fund assets as determined by the County Council."

Commissioner Comer is suggesting we eliminate the word
"council". And other option would be to delete the mandatory
word, "shall". You can delete it or replace it with "may."

"The priority list of impact mitigation projects may be
established by the County." And you can go from there.

MR. CHAIRMAN: I think Councilman Kokubun wants to respond to that.

MR. KOKUBUN: Thank you, Mr. Chairman. I think where the Council is first mentioned on Page 1, the wording went something like this, "upon concurrence of the County Council said royalties shall also be deposited to the fund." I would have no objection to that, primarily because the Council is the body that administers policy over the budget.

In terms of where the County Council is mentioned on Page 2, both with the "priority list of impact mitigation projects" as well as the "pro-rata share of fund assets as determined by the County Council." I think that's the area that I was concerned with. Perhaps language similar to what is now found in the Hawaii Revised Statutes for the issuance of Geothermal Resource Permits could be included.

I think it reads something like, "established by the County Council or an agency as designated by the County" or something of that nature. But, again, I would have severe problems with the mandate of a responsibility to the Council laid down by the Commission. Thank you.

MR. LUCE: Councilman Kokubun, there is an opportunity here then to modify the language to include reference to the County Council but add, perhaps parenthetically, "or agency as designated by that Council."
MR. KOKUBUN: I would have no problem with that, Commissioner, except I would have problems, again, with the mandate of responsibility.

MR. LUCE: Yeah.

MR. KOKUBUN: That's the primary area of concern. And, again, I need to emphasize that I speak only as a Puna Council member.

MR. LUCE: Understood, your input is valued.

MR. KOKUBUN: And if you need input from the body, we can provide that for you. Thank you.

MR. LUCE: I think the concerns voiced by Councilman Kokubun could be addressed by changing references. The word "shall" to "may" and including parenthetically, "priority", let's see, "may be established by the County Council or agency designated by that Council in conjunction with the Puna residents or designated representative thereof." etc.

You see the two places that the Council appears on the second page are actually the same kind of thing. One refers to them as determining "the priority list for Puna District." The second one is the same thing except it's for other districts. So we have one wording problem appearing twice.

MR. CHAIRMAN: Any further discussion?

MR. LUCE: Yes, Mr. Chairman, I think we should move to final wording on this proposed condition number 51. Perhaps the Planning Director could be of assistance in
summarizing. If not, I'll make an attempt to summarize.

MR. CHAIRMAN: I think the Planning Director initially presented the draft and Mr. Kanuha made the statement that this is not his recommendation, but is just a draft for the Commission to use. And so I think the Director stands that his presentation is not a recommendation, but merely a draft for the Commission to use.

MR. LUCE: If I could make that attempt then, Mr. Chairman, to summarize what we've been talking about right here which is the proposed language for Rule 51.

"Prior to the issuance of the first building/construction permit under this Geothermal Resource Permit, the County of Hawaii, the State of Hawaii and the Permittee shall each contribute towards the geothermal asset fund or other appropriate existing fund for the purpose of geothermal impact mitigation efforts within the District of Puna.

"The Permittee's initial contribution to the fund shall be in the sum of $60,000 due within 30 days after the effective date of this GRP permit. And an annual sum of $50,000 due on or before the anniversary date of this GRP permit over a period of eight consecutive years thereafter for a total of $460,000.

"Annual contributions thereafter shall be determined between the Permittee and the State of Hawaii or $50,000 annually whichever is greater.
"The state's initial contribution to the geothermal asset fund shall be the net" --

MR. CHAIRMAN: Excuse me. Is that the state's initial/annual contribution?"

MR. LUCE: Yeah, is that what I said?

MR. CHAIRMAN: No, you just said, "initial."

MR. LUCE: Sorry. "The state's initial/annual contribution to the geothermal asset fund shall be the net revenues derived from the resources generated by the HGP-A well or a similar amount from other state funding sources less any allocations/entitlement to the Office of Hawaiian Affairs. Insert, "less any allocations entitled to the Office of Hawaiian Affairs and operating and maintenance costs."

"In the event that future enabling legislation provides for a percentage of the state's geothermal royalties to be allocated to the county, upon the concurrence of the County Council said royalties may also be deposited to the fund.

"The administration and expenditure of assets from this geothermal asset fund shall be in accordance with rules, regulations and procedures developed for that purpose by the county in accordance with Chapter 91, HRS, and with the participation of Puna residents or representatives thereof.

"But not limited to provisions and criteria to enable the first priority of the distribution for temporary or permanent relocation of those property owners." Excuse me,
correction. "Temporary or permanent relocation of those property owners who are found in accordance with criteria established in the rules to adversely impacted by the activities authorized provided that such relief is applied for within a period of one year of the impact.

"The priority list of impact mitigation projects may be established by the County Council or agency designated by the Council in conjunction with the Puna residents or designated representatives thereof with the exception of upgrading existing subdivisions in the Puna District to current subdivision standards and specifications of the County of Hawaii." Getting near the end.

"Should any other districts of the County of Hawaii be proved to be negatively impacted by the activities authorized under this or any other subsequent GRP, that district shall receive a pro-rate share of the fund assets as determined" let's insert, "as may be determined by the County Council or agency designated by that Council with the expenditures to a prioritized schedule determined and outlined above.

"The rights granted to the Permittee shall not be conditioned upon any contribution or further participation by the state in the fund nor with respect to the regulation, management, and operation of the fund other than set forth above."

Thank you for reading through that with me,
Mr. Chairman.

MR. CHAIRMAN: It has been moved and seconded that this application be approved for the reasons and with the conditions --

MR. LUCE: Wait a minute, we're not quite there.

MR. HOLT: That's not the motion.

MR. LUCE: I moved that the language I just read in detail be adopted as proposed condition 51.

MS. COMER: I seconded.

VOICE: Scrap it.

MR. CHAIRMAN: Now, clarification, this is not a motion for approval of the application?

MR. LUCE: That is correct.

MR. CHAIRMAN: This is just a motion for adoption of condition 51?

MR. HOLT: That is correct.

MR. FUJIMOTO: There is also a motion on the floor to close the public hearing.

MR. GIANNINI: If somebody made a motion, who seconded it?

MS. COMER: Mike did.

VOICE: Wake up.

(Several people speaking at once.)

MR. LUCE: What is the proper procedure then?

MR. CHAIRMAN: The motion to close the public hearing
has been seconded. Under discussion, Commissioner Luce
proposed that this condition be added to the proposed
conditions by Staff.

MR. LUCE: Mr. Chairman, under discussion of the move
to close public hearing and the second, I believe Councilman
Kokubun gave some input under discussion to close the public
hearing. As a result of Councilman Kokubun's input, wording
for the proposed condition 51 was revised and that's where we
are now.

I tell you what, I tell you what I'm willing to do,
I'm going to withdraw my motion that condition 51, as read,
be adopted.

MR. CHAIRMAN: That is correct. I don't think we can
take your motion first, prior to closing the public hearing.
Are they any further discussions on closing the public
hearings?

MS. COMER: Question.

MR. CHAIRMAN: Please speak into the mic, Commissioner
Comer.

MS. COMER: If we close the public hearing, can we then
adjust the wording in item 51?

MR. GIANNINI: Yes.

MR. CHAIRMAN: Yes.

MS. COMER: Okay.

MR. CHAIRMAN: Any further discussion? (No response)
Roll call to close the public hearing.

COMMISSIONER FUJIMOTO: Aye.
COMMISSIONER LUCE: Aye.
COMMISSIONER BUSH: No.
COMMISSIONER COMER: Aye.
COMMISSIONER HOLT: No.
COMMISSIONER ISHIMARU: Aye.
COMMISSIONER POY: Aye.
COMMISSIONER SANCHEZ: Aye.
CHAIRMAN MIZUNO: No.

MR. NAKANO: Mr. Chairman, there are five "no's" to close the public hearing --

MR. CHAIRMAN: The hearing is closed. Mr. Luce, your motion.

MR. LUCE: I move that the language that I read for proposed condition 51 be adopted by the Commission as proposed condition 51.

MR. CHAIRMAN: Is there a second?

MS. COMER: Second.

MR. CHAIRMAN: It has been moved and seconded that proposed condition presented by Commissioner Luce be added to our conditions as condition number 51. Discussion? (No response) Roll call.

MR. ISHIMARU: Mr. Chairman, is it out of order to ask for further public input?
MR. CHAIRMAN: The public hearing is now closed. Roll call.

COMMISSIONER LUCE: Aye.
COMMISSIONER COMER: Aye.
COMMISSIONER BUSH: I have a question on that motion.
MR. CHAIRMAN: The motion is that, and it has been seconded, that we have a proposed condition presented by Commissioner Luce, that the Commission adopt condition 51 to add to the conditions presented by Staff.
MR. POY: As amended.
MR. CHAIRMAN: It's not amended because Staff did not recommend this condition.
COMMISSIONER BUSH: Yes.
COMMISSIONER FUJIMOTO: Yes.
COMMISSIONER HOLT: No.
COMMISSIONER ISHIMARU: Aye.
COMMISSIONER POY: Aye.
COMMISSIONER SANCHEZ: Aye.
CHAIRMAN MIZUNO: Aye.
MR. NAKANO: Mr. Chairman, there are eight "ayes" and one "no". Motion carried.
MR. FUJIMOTO: Mr. Chairman.
MR. CHAIRMAN: Mr. Fujimoto.
MR. FUJIMOTO: This is a situation of damned if you don't and damned if you do. But with respect to all who are
present here tonight, I would like to make a motion to accept the application of Ormat with the reasons and conditions that were recommended by Staff, including condition 51.

MR. LUCE: Second.

MR. CHAIRMAN: It has been moved and seconded that the application be approved for the reasons and with the conditions as presented by the Staff, and also with the additional condition 51 as voted upon by this Commission to be accepted.

MR. GIANNINI: Can I state the criteria into the record just to be certain?

MR. CHAIRMAN: You may.

MR. GIANNINI: To be certain about this. The rules say, "Criteria for Issuance of Geothermal Resource Permit"

It states:

"The Planning Commission shall grant a Geothermal Resource Permit if it finds that the applicant has demonstrated that:

"(a) The proposed geothermal development activities would not have unreasonable adverse health, environmental, or socio-economic affects on the residents or surrounding property and;

"(b) The proposed geothermal development activities would not unreasonably burden public agencies to provide roads and street, sewers, water, drainage, school improvements, and
police and fire protection, and;

"(c) There are reasonable measures available to
mitigate the unreasonable adverse affects or burdens referred
to above." That's your standard.

MR. CHAIRMAN: Any further discussion on the rules?

MR. LUCE: Can we have the discussion now,

Mr. Chairman?

MR. CHAIRMAN: Yes, you may. I believe the motion has
been seconded.

MR. LUCE: In response to Commissioner Fujimoto's
comment and in response to your comments, this has been a
difficult case. The impacts of any powerplant, audio, visual,
and emissions concerns are always present no matter what the
source of power or what the method of generation.

It's been like this, issues where the good of many
have to take --

VOICE: Oh, shit.

VOICE: You're poisoning us.

MR. LUCE: -- have always shown that, mainly, every
attempt is made to respect the rights of individuals.

(Several people speaking at once.

VOICE: See you all in court.

MR. CHAIRMAN: May we have roll call.

COMMISSIONER FUJIMOTO: Aye.

COMMISSIONER LUCE: Aye.
COMMISSIONER BUSH: With all due respect to my commissioners, to the people here present, to the applicant, with deep --

MR. CHAIRMAN: Commissioner Bush, it is against parliamentary procedure --

COMMISSIONER BUSH: Fine. My vote then is "no".

COMMISSIONER COMER: Aye.

COMMISSIONER HOLT: No.

COMMISSIONER ISHIMARU: Aye.

COMMISSIONER POY: Aye.

COMMISSIONER SANCHEZ: Aye.

CHAIRMAN MIZUNO: No.

MR. NAKANO: Mr. Chairman, the vote is six "ayes", three "no's". Motion carried.

MR. CHAIRMAN: This application has been approved. You will be informed in writing of this decision. We will now take a 10-minute recess.

(The public hearing was concluded at 6:35 p.m.)