

PLANNING OFFICE

DEPARTMENT OF HAWAIIAN HOME LANDS

October 19-20, 2015

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: M. Kaleo Manuel
Acting Planning Program Manager

FROM: Julie-Ann Cachola, Planner

SUBJECT: Accept the Beneficiary Consultation Report for the
NextEra Kahikinui Wind Project, Kahikinui, Maui,
TMK: (2)1-9-001:003

RECOMMENDED MOTION/ACTION

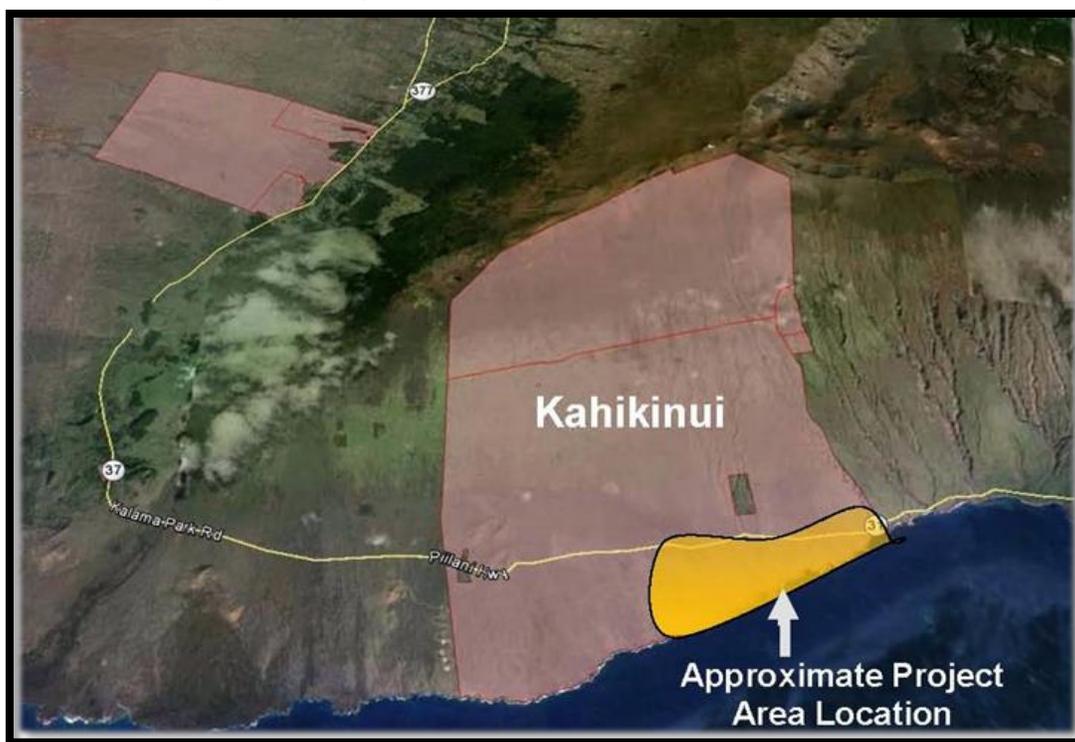
That the Hawaiian Homes Commission (HHC) accept this Beneficiary Consultation Report as the official public record of beneficiary issues, questions, concerns, and comments relative to NextEra's Proposed Wind Energy Project at Kahikinui, Maui.

DISCUSSION

PROJECT DESCRIPTION

Boulevard Associates, a Delaware LLC, an affiliate of NextEra Energy, Inc. ("NextEra"), proposes to construct, own, operate, and eventually decommission a wind energy generation facility ("wind farm") in the southeastern portion of the moku of Kahikinui (see Figure 1). The project will consist of twenty (20) wind turbines, each with a rated output of 3MW, for a total generating capacity of up to 60MW. The project will require 500 acres during construction. Once constructed, only thirty (30) acres would be required for access roads and the twenty (20) turbine pads. The exact location and arrangement of the turbines will be determined upon the completion of due diligence studies. The energy would be sold to MECO under a power purchase agreement (PPA) in order to service on-island Maui energy needs.

Figure 1: Project Location within DHHL Kahikinui Lands



In order to develop the wind farm, NextEra is seeking Commission approval for two (2) consecutive land dispositions:

1. An initial Right-of-Entry (ROE) permit to complete due diligence studies, secure necessary permits, secure the PPA, and other pre-construction work. Effective upon approval, the ROE would be for a term of three (3) years with two (2) options to extend for one (1) year.
2. When the project is able to transmit power to the grid, the 20-year General Lease would begin, with an option to extend the lease for five (5) years at the same rent.

NextEra is offering a compensation package that includes:

1. The Right-of-Entry Fee: \$175,000 per year for three (3) years, with two (2) options to extend for 1-year at the rate of \$200,000 per year.
2. General Lease Rent which is contingent upon the PPA and will remain confidential until the PPA is finalized.
3. A Community Benefit Package that would begin at the same time of the General Lease. The actual amount is also contingent upon the PPA. NextEra estimates that it would be about \$300,000 per year.

POLICY FRAMEWORK

A. Ho'omalūō¹ - The Energy Policy

In January 2009, the Hawaiian Homes Commission adopted the Ho'omalūō Energy Policy (Attachment A) to enable native Hawaiians, working together with the broader community, to lead Hawai'i's efforts to achieve energy self-sufficiency and sustainability. The Energy Policy identifies five (5) key objectives to achieving healthy, self-sufficient and thriving communities, which are to:

1. Focus on the environment and the preservation of values that restore balance, harmony and sustainability of Hawai'i's lands;
2. Pursue opportunities for economic self-sufficiency and contribute to Hawai'i's Clean Energy Initiative through leasing of lands owned by DHHL for renewable energy projects;
3. Build new, affordable, sustainable communities and promote energy initiatives;
4. Incorporate renewable energy technologies into existing homesteads; and
5. Conduct outreach programs to educate and encourage the public to live a "green" lifestyle.

B. Renewable Energy Development on Maui Hawaiian Home Lands

Objective 2 of Ho'omalūō calls for the identification and leasing of DHHL lands that have potential for renewable energy development. The Planning Office analyzed GIS data on renewable energy resources in order to identify three (3) tracts of land that have excellent potential for renewable energy development.

Chapter 171-95.3, HRS allows the Commission/Department to lease trust lands for renewable energy development without public auction (i.e., through direct negotiation). The statute specifies:

- The content of renewable energy development proposals;
- Public notification of the selected developer and the proposed renewable energy project prior to the leasing of trust land by conducting two (2) public hearings on the island where the project is located; and

¹ Definition: To conserve, i.e. to use or manage wisely, to prevent depletion as natural resources. Conservation, i.e. careful use of natural resources to prevent depletion. Combination of malu + ō = thrive

- Commission decisions on the renewable energy development proposal must be made on the island where the project is located.

Figure 2 provides a summary of activities and actions that occurred from 2013 to 2015 related to the promotion of renewable energy development on Hawaiian Home Lands. The following narrative provides an explanation of those activities and actions.

In January 2013, the Hawaiian Homes Commission approved posting a public notice in all major newspapers to announce that DHHL would be accepting letters of interest to develop renewable energy projects on Hawaiian Home Lands at:

- Honokōwai: General Agricultural lands on both sides of the gulch, up to 400 acres;
- Pūlehunui: Industrial/Agricultural parcel, up to 500 acres; and
- Kahikinui: Special District lands, makai parcel, up to 500 acres

In response to the public notice, DHHL received 46 proposals from 22 entities. Eleven (11) proposals were submitted for the Kahikinui parcel.

2013 CONSULTATION MEETINGS AND FINDINGS

In January to March 2013, the Planning Office conducted a series of meetings with Maui homestead leaders which culminated in two (2) public hearings. The presentation identified three (3) parcels (Honokōwai, Pūlehunui, and Kahikinui) for renewable energy development. Without specifying any particular renewable energy source, a broad platform was created for beneficiary and public comment.

The March 2013 Public Hearings revealed substantial interest in developing Honokōwai's agricultural potential. There was also pointed opposition to developing renewable energy at Honokōwai. It was clear that Honokōwai possessed significant agricultural features and that there was sufficient demand and interest in utilizing the parcel to promote sustainable agriculture.

Pūlehunui's greatest attribute is its strategic location, not only at the isthmus that connects Haleakalā to the West Maui Mountains, but also its close proximity to airport and harbor facilities. In addition, Pūlehunui is adjacent to large tracts of State and county lands. Upon inquiry we found that these parcels were being considered for development by the respective

State and county agencies. In light of the fact that any development in this region would require basic (and costly) infrastructure, including water and sewer service and a road network, DHHL was instrumental in forming an interagency planning group that met regularly to identify opportunities for joint infrastructure development and to coordinate land uses within a regional context. As a result of these efforts, agencies were successful in securing funding from the legislature to continue master planning work.

In consideration of the input we received in the 2013 consultation meetings and light of the progress made in the interagency planning group, DHHL determined that it would not pursue renewable energy development at Honokōwai or Pūlehunui at this time.

Regarding Kahikinui, it was a pilot project initiated by beneficiaries in the early 1990's to replace over 100 years of ranching activities with beneficiaries returning to the land, as is, for their use and stewardship. Each 'ohana took on the responsibilities of taking care of their area, working on community infrastructure, and being a part of the community association. Based on the 2013 public hearings, there was indicated support for alternative energy as long as the proposed development provides direct benefits for Kahikinui lessees. Therefore, the Department decided to continue efforts to develop Kahikinui's renewable energy potential.

Figure 2: Summary Project Activities Over Time
(shaded actions are beneficiary consultation meetings)

TIMEFRAME	ACTION
January 2013	<ul style="list-style-type: none"> - HHC authorizes direct negotiations with Maui renewable energy developers - Legal notice requesting letters of interest to develop renewable energy projects at Kahikinui, Pūlehunui, and Honokōwai
February 2013	<ul style="list-style-type: none"> • Meetings held with Maui homestead leaders to discuss renewable energy development at Kahikinui, Pūlehunui, and Honokōwai <p>The Department receives eleven (11) Letters of Interest to develop solar, wind, and biofuel/biomass projects at Kahikinui; 4 were wind projects</p>
March 2013	<ul style="list-style-type: none"> • HHC conducts 2 Public Hearings on Maui, regarding renewable energy projects at Kahikinui, Pūlehunui, and Honokōwai <ul style="list-style-type: none"> - Attendees did not support renewable energy development at Pūlehunui or Honokōwai - Kahikinui--conditional support-- as long as the energy project produces direct benefits for Kahikinui lessees.
July 2013	PUC issues orders delaying HECO’s issuance of RFPs for renewable energy; uncertainty delays selection of developers
Nov 2014	Kahikinui wind proposals evaluated by staff and energy consultant—2 proposals were selected for further negotiation.
January 2015	NextEra selected for direct negotiations on the wind project
May 2015	<ul style="list-style-type: none"> • Beneficiary Consultation meeting at Waiohuli with Kahikinui lessees regarding NextEra selection
July 2015	<ul style="list-style-type: none"> • Meeting with Ka ‘Ohana o Kahikinui Board of Directors • Informational meeting for Maui beneficiaries to prepare for Public Hearings • Two (2) Public Hearings at Paukūkalo regarding the NextEra Wind Energy Project at Kahikinui

We expected to conduct the second round of meetings shortly after the first round, however, in July 2013, unexpected and significant decisions at the PUC brought all renewable energy projects to a complete stop. Over a year later, with the assistance of our newly contracted energy consultant, the Department resumed activities to promote renewable energy development on trust lands at Kahikinui. In November 2014, the field of renewable energy developers for Kahikinui was narrowed down to two (2) developers. In January 2015, NextEra was selected as the renewable energy developer for Kahikinui.

2015 CONSULTATION SESSIONS

From May to July 2015, we conducted the second round of meetings and public hearings pursuant to Chapter 171-95.3, HRS, relative to renewable energy development on Hawaiian Home Lands at Kahikinui, Maui. This consultation report provides summary highlights and documentation on the four consultation meetings that were conducted specifically to discuss the proposed NextEra Wind Energy Project at Kahikinui. The Appendix provides the following source documents for every meeting:

- Means of Notification: The postcard, letter, and/or legal notice that was used to notify and invite beneficiaries to the particular meeting.
- Meeting Handouts and Presentation Materials: All materials that were handed out at the meeting and any presentation materials (copies of the powerpoint presentation) are included in the attachment.
- Summary Meeting Notes: Staff meeting notes provide a list of meeting information on attendees and their individual comments, questions or concerns.

The next section of this report provides summary highlights of the concerns, questions and comments raised by beneficiaries and other meeting attendees. It also provides staff analysis and recommendations.

2015 CONSULTATION FINDINGS

This Report covers four (4) separate consultation meetings that were conducted from the end of May to the end of July, 2015. Figure 3 provides summary data on meeting attendance and participation through oral and written testimonies. The reader should note that there were a number of individuals that attended more than one meeting. The participation data accurately identifies the number of people that attended each meeting.

However, the summed total is not an accurate count of the total number of participants. Through the attendance sign-in sheets, we found that:

- 19 people attended 2 meetings
- 16 people attended 3 meetings
- 2 people attended all 4 meetings
- 12 people submitted written testimony without attending any meeting; the other 16 people who submitted written testimonies also attended at least one meeting.

Figure 3: Meeting Attendance and Participation

DATE OF MEETING	NOTIFICATION SENT TO...	ORAL TESTIMONIES	NUMBER REGISTERED
May 23, 2015	Kahikinui Lessees and Applicants with 96790 Kula zipcode	26	19
July 13, 2015	Maui Beneficiaries		57
July 29, 2015	Maui Beneficiaries and General Public	21	82
July 30, 2015	Maui Beneficiaries and General Public	19	41
WRITTEN TESTIMONIES		28	
TOTALS:		94	199

2015 CONSULTATION SUMMARY FINDINGS:

The documentation provided in the Appendix provides an account of all oral and written testimonies. Combined with the participation data above, it is clear that we had an engaged group of individuals. The testimonies further indicate that to a large extent, the participants shared similar concerns. Figure 4 presents these shared and similar concerns. The comments are loosely organized by subject areas which was intended to help the reader connect the specific concerns to larger project elements. The last column identifies staff responses and recommendations that are meant to clarify points of information and to provide staff insight on the particular concern.

SUBJECT	COMMENTS FROM MEETINGS	STAFF RESPONSE/RECOMMENDATIONS
PROJECT	What are the overall project specifications?	The project will construct 20 wind turbines at a capacity of 3MW each, for a total generating capacity of 60MW, which will service on-island demand. There is a demand for renewable energy because the state has set renewable energy goals that must be achieved by certain deadlines. The original legislation called for 40% renewable energy by the year 2040, however, Governor Ige recently changed this to be 100% renewable energy by 2045. MECO has to bring more renewable energy online to meet the state requirements. The turbines do NOT require any fossil fuels to start up or operate. The project is proposed toward the southeastern end of the property because the Kahikinui lessees requested that NextEra construct the turbines away from their views. Staff also recommends that renderings be produced to show the visual impacts and scale of the project.
UNDERSEA CABLE	Where is energy going and does it need the cable?	Energy generated from this project will go into Maui's grid, the undersea cable is not needed.
PROCESS	What has happened thus far and what's the process moving forward?	<ol style="list-style-type: none"> 1. Several rounds of meetings with beneficiaries and community have been completed. 2. DHHL has selected a renewable energy developer as specified in Chapter 171-95.3, HRS 3. DHHL has held 2 public hearings to inform the public that NextEra was selected as the developer and to share their proposed project. 4. Beneficiary Consultation Report will be filed with the HHC in October, 2015. 5. HHC will make a decision on the Right of Entry permit and General Lease at its Nov meeting on Maui.
PROCESS	Seems rushed and exclusive. Need to find a way to be inclusive and get to common ground/agreement.	We have been looking at a means to achieve this. We are considering engaging beneficiaries in discussions to identify and agree on general development goals
WIND TURBINES DESTROY PRISTINE VIEWS	A majority of participants oppose the project due to the construction of the wind turbines which will destroy the pristine views that inspire and connect us to our kūpuna and 'āina.	Staff would like to work with the community and developer to identify specific places where we can preserve the pristine views—some would be scenic points, but we could also identify a view 'corridor' that can capture a larger 'frame'. Several of the Kahikinui lessees explained that what we see today is really a denuded environment—it's on its last leg and they are administering CPR. What the lessees have envisioned is to restore the forest, restore key archaeological sites to give a fuller, thriving view of Kahikinui. But they also

SUBJECT	COMMENTS FROM MEETINGS	STAFF RESPONSE/RECOMMENDATIONS
		recognize that this requires money and labor, which is why they have supported the project. They see it as a means to much greater ends.
CULTURAL	How are archaeological sites going to be protected?	KOOK should be informed about anything related to archaeological sites at Kahikinui. NextEra is communicating with the archaeologist that conducted the inventory of sites at Kahikinui. There are over 3,000 sites at Kahikinui. The proposed project will need to be compliant with all Federal and State historic preservation laws.
ENVIRONMENTAL	Concerned about environmental impacts of the project on this pristine place (destruction of ‘āina, visual impacts of poles, impacts to birds, impacts to plants). Concerned about impact studies that misrepresent population counts in order to minimize impacts--we don't want to be lied to, methodology needs to be sound.	KOOK should designate 1-2 people to be the contact for all consultant studies--the designate would coordinate field visits and ensure that appropriate resource people are present. All environmental impacts will be addressed in the EIS process.
OPPONENTS	A majority of those in attendance opposed to project because they saw that outsiders were getting approvals before their entitlements are being addressed (i.e. homesteading, infrastructure, etc.)	Partnering with private sector to develop renewable energy projects, where such projects or activities by others does not interfere with the proper performance of the duties of the department, is a way to leverage private resources and capital to accomplish and expedite development of lands and infrastructure for homestead and beneficiary use.
SUPPORTERS	Those that support, including KOOK and most of the Kahikinui residents, see this project as helping with environmental and cultural protection, stewardship and infrastructure improvements.	The supporters understand how people are struck by the vast expanse and pristine views at Kahikinui, they know that what we have today is a small fraction of what once existed. It would be unacceptable to leave it the way it is now. They understand that Kahikinui could be so much more—but it requires vision, stewardship, money and people. They are willing to work with NextEra in order to achieve their greater vision.
LOCATION	Concerned about project location near coast and presence of cultural and natural resources (prime fishing grounds). Is there a possibility to move the project up mauka instead of makai?	Generally speaking, winds are stronger the closer you get to the shoreline. NextEra is collecting wind data in different areas. The results will help to determine if some (or all) of the turbines could be moved mauka of the road.

SUBJECT	COMMENTS FROM MEETINGS	STAFF RESPONSE/RECOMMENDATIONS
GOVERNANCE AND COMMUNITY MANAGEMENT RESPONSIBILITY	KOOK requested that they be present/included any time DHHL makes a decision on Kahikinui.	The Department piloted a “Kuleana Homestead Program” at Kahikinui which allowed lessees to develop off-grid homesteads and gave the homestead association, Ka ‘Ohana o Kahikinui, management kuleana in the forest area, the homestead area, and makai. Pursuant to these specifications of the pilot program, KOOK should be included when DHHL is considering decisions that affect Kahikinui.
NEGOTIATION	Kahikinui wants to be part of negotiation	Ka ‘Ohana o Kahikinui will send 2 representatives to participate during negotiations.
GENEALOGY	We are from this ‘āina and that is important; genealogy is important	We agree that genealogy is important. We hope that people with genealogical ties to Kahikinui are lessees at Kahikinui or applicants.
BENEFICIARY CONSULTATION	Include all beneficiaries not just Kahikinui - it involves all of us – it’s that important	The 2013 public hearings on renewable energy and the 2015 public hearings on the Kahikinui Wind Energy Project were open hearings, well attended.
COMMUNITY BENEFITS AGREEMENT	What is included in the community benefits agreement and how will that be distributed?	The amount is contingent upon the PPA, but is estimated at \$300K per year which would be distributed directly to Kahikinui to implement their priority projects: roads, water, energy, assist with implementation of mauka and makai plans, ecotourism, self-sufficiency, etc.
LEASE RENT	How much money will DHHL get from this project? Is that enough? Where will the money from the ROE and GL rent be used?	The ROE fee is \$175,000 per year for 3 years, with 2 options to extend for 1 year at the rate of \$200,000 per year. The Lease Rent is confidential until the PPA is finalized. The lease rent will be deposited into DHHL’s Trust Fund which is used for homestead development
ACCESS	How will access to the shoreline be affected by this project?	Work with developer to facilitate access to shoreline on paved roads and to develop rules governing makai access (e.g., access only with Kahikinui lessee? When?). Need to check State laws regarding shoreline access.
ENERGY ALTERNATIVES	Should look at other energy alternatives in addition to/or instead of wind - pump storage, solar farm near homes, rooftop solar, battery systems	Kahikinui provides opportunities for NextEra to explore energy alternatives.
COMPLIANCE	What type of permits are required for this project?	Required permits will be identified in the Environmental Assessment/EIS process. There are a number of permits required for any wind project and there are permits that would be required depending on the location of the project. The Hawaii State Energy Office (energy.hawaii.gov) has

SUBJECT	COMMENTS FROM MEETINGS	STAFF RESPONSE/RECOMMENDATIONS
		resources and publications that identify all the permits required for renewable energy projects.
INFRASTRUCTURE	Concerned about lack of and cost of infrastructure improvements to service new wind project	Infrastructure improvements to support energy transmission should be identified in the Environmental Assessment/EIS process. Transmission upgrades directly related to the project are usually paid by the project. General system upgrades required by the utility, in order to meet the state 100% Renewable Energy mandate, are part of utility planning and paid for as approved by the PUC.
HEALTH EFFECTS	Concerned about how wind turbines affect people living in close proximity. Concerned about high voltage overhead transmission lines.	Health effects will be identified in the Environmental Assessment/EIS process.
TERM	Term of project and post project expectations	The Lease is for 20 years, with an option to extend for another 5 years. Post project, NextEra will remove wind turbines and return the affected areas to their prior state,
AHA MOKU	Aha Moku opposes this project and requests to be consulted in this process	We have noted Aha Moku's participation in the meetings and public hearings we have conducted. We have also noted the written testimony that Aha Moku representative have submitted.
END OF GENERAL LEASE	Will NextEra be required to remove the wind turbines?	Yes, as a condition of the lease agreement.

RECOMMENDATION

That the Hawaiian Homes Commission (HHC) accept this Beneficiary Consultation Report as the official public record of beneficiary issues, questions, concerns, and comments relative to NextEra's Proposed Wind Energy Project at Kahikinui, Maui

Acceptance of this Report does not indicate concurrence or approval of staff recommendations identified in Figure 4.