

From: Roberts, Stephanie L
To: Nalani E. Dahl; Zaref, Amy
Sent: 8/3/2009 1:12:39 PM
Subject: FW: Initial Comments to Draft Programmatic Agreement by Hui Malama I Na Kupuna O Hawai'i Nei

Redacted

From: Yoshioka, Danielle
Sent: Monday, August 03, 2009 8:24 AM
To: Spurgeon, Lawrence; Hogan, Steven; Roberts, Stephanie L; Foell, Stephanie
Subject: FW: Initial Comments to Draft Programmatic Agreement by Hui Malama I Na Kupuna O Hawai'i Nei

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From: Halealoha [mailto:halealoha@wave.hicv.net]
Sent: Friday, July 31, 2009 7:13 PM
To: Yoshioka, Danielle
Cc: Kawika McKeague; 'Charles Kauluwehi Maxwell'; 'Ka'ohuoka'ala Seto'; Kihei Nahale'a; Poki'i Seto; 'Pualani Kanahele'; 'William & Melva Aila'; 'Wilma Holi'; 'Dana Naone Hall'; 'Ihilani Chu'; 'Kaleikoa Ka'eo'; Ka'ohulani McGuire; 'Kauila Keli'ikanaka'ole'; 'Kehaunani Abad'; 'Kekailoa Perry'; Kekuewa Kikilo; Kimo Armitage; 'Konia Freitas'; 'Landis Ornellas'; 'Ty Kawika Tengan'
Subject: Initial Comments to Draft Programmatic Agreement by Hui Malama I Na Kupuna O Hawai'i Nei

Aloha no kakou,

Our organization is in receipt of your letter of July 13 2009. We did not receive it until now because it was sent to our old mailing address. This is to confirm that I called and spoke to you today updating the mailing address for our organization as 622 Wainaku Ave Hilo 96720.

Our main concern with the Draft Programmatic Agreement (DPA) is the peculiar absence of any mention of the operative state law and responsible entity for the treatment of previously identified, unmarked Hawaiian burial sites discovered during the project. This is a glaring omission. The DPA does mention the operative law for treatment of Hawaiian remains discovered on Federal (Navy) and Hawaiian Homelands, which of course is the Native American Graves Protection and Repatriation Act (NAGPRA).

However, the majority of the project is located on State, County or private lands and the operative law is Hawai'i Revised Statutes Chapter 6E and the entity with legal authority and responsibility to determine whether to preserve in place or relocated previously identified Hawaiian burials for the project is the O'ahu Island Burial Council. The language of the DPA seems to broad brush this authority by instead identifying the State Historic Preservation Division (SHPD) as the main authority for the treatment of such remains but this is incorrect unless of course the City and County of Honolulu has no intention of complying with HRS

Chapter 6E to conduct inventory surveys to identify unmarked Hawaiian burial sites. If so, we caution the City and County to rethink this approach. Ancestral Hawaiian burial sites do not exist for the purpose of being moved. Mayor Hanneman made a commitment to protect Hawaiian burials when he ran for office and we hope he will keep this word and instruct his administration to follow the letter of the law and conduct archaeological inventory surveys with appropriate testing levels to assure that concentrated burial sites and individuals burial sites are identified upfront so that the OIBC can make its determinations as part of the historic preservation planning process as provided by Chapter 6E and Chapter 13-300 Administrative Regulations.

We will monitor the development of the DPA and the final PA to assure that the proper process is followed. Please feel free to provide updates to us at this email address.

If there are any questions, please feel free to respond to me at this address or by calling 808.646.9015.

Ola na iwi,
Edward Halealoha Ayau
Executive Director
Hui Malama I Na Kupuna O Hawai'i Nei