HHCTCP AFEIS
Barr 11/3/09 Comments on:
October 9, 2009 AFEIS & Final Visual Chapter October 2, 2009

General comments:

HTS has demonstrated little enthusiasm for including in the document text that FTA has requested and the HTS apparently disagrees with. Prior to FTA giving HTS the OK to print the final document, FTA HQ would like time for a final adequacy review.

HTS sent FTA HQ several individual documents to review prior to preparation of the 10/9/09 AFEIS. They included 10/2/09 pdf's of chapter 4.8 Visual and Aesthetic Conditions and chapter 4.10 Noise and Vibration. After review, HQ staff found that these chapters met the FTA requirements for proper methodology, determination of impacts, commitment to mitigation and narrative explanation. However, subsequent review of the 10/9/09 document demonstrated enough changes in the Visual and Aesthetic narrative to warrant continued discussion on this chapter. HTS can agree to include the 10/2 pdf version of the Visual and Aesthetic chapter in the final version of the FEIS or have a line-by-line conversation on the chapter with FTA staff.

On page 2-45, the text states "Construction of stations in under-developed areas may be deferred until those areas are developed." As we mentioned in our last set of comments, this issue had not previously been discussed with the PMOC or FTA staff. It was FTA's understanding that all stations shown on the drawings are to be constructed in their entirety and operated as part of the Project. HTS' response to comments that this issue has been fully discussed with FTA is inaccurate. The first two sentences of this paragraph should be removed.

The presumption in the AFEIS is that we are not doing Section 4(f) on burials because they are not an historic resource. Regarding 4(f), there is a two part test for burials: 1.) are these sites National Register listed or eligible, and 2.) do these resources warrant preservation in place? If the archeological resource meets both parts of this test – then 4(f) applies. Clearly, the iwi kupuna merit preservation in place. The question is: are iwi kupuna NRHP eligible?

FTA counsel has determined that we need an opinion from the Hawaii SHPD regarding the eligibility issue since the SHPD has local authority over the resource. No 4(f) on archeological burials has been completed in the AFEIS. In order to justify this course of action, HTS must supply FTA with written assurances from the Hawaii SPD that iwi kupuna are not NRHP eligible. Also, this discussion must be presented in the 4(f) section of the FEIS.

The parking mitigation measures in Appendix I (P1-P6) appear to indicate that the determination of a number of station area parking impacts have been an afterthought in the environmental process. This issue needs further discussion. See comment below.

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Send FTA a copy of the Hawaiian SHPD's letter of February 4, 2008 concurring in the APE. (ref. p. 4-177 of AFEIS)

Specific comments

Chapter 2

Chapter 2 was supposed to contain the following language:
"While the Build Alternative would be environmentally preferable regarding air quality, energy use, and water quality, the No Build Alternative is the environmentally preferable alternative based on overall consideration of the criteria listed in Title 40 part 1505.2(b) of the Code of Federal Regulations. The No Build Alternative would directly affect fewer historic and cultural resources, waters of the U.S., have no direct visual impact, and cause no displacements."
We cannot locate the language.

Page 2-2
Section 2.2 Alternatives Screening and Selection Process
FTA asked that this chapter be enhanced to include a table of various alternatives and the environmental screening criteria or environmental scores (Environmental Screening Matrix) that demonstrated why they were not selected for further environmental review. This should include the "broad range of alternatives" and the "alternatives considered in the alternatives analysis." There is no environmental screening table. The original FEIS has a table (2-1) with all of the New Starts criteria for the project as a "Summary of A/A Findings." This is a NEPA document not a New Starts document. Where is the Summary of Environmental Screening?

Page 2-8
Table 2-3 needs to be broadened to include other resource areas.

Chapter 3

Page 3-57
The approach to mitigating spillover parking is inadequate if the intention is to, "…conduct surveys to determine the extent of spillover parking demand near stations…" prior to construction, and build new parking lots (structures?) as necessary. Parking restrictions, regulations, permit and shared parking are reasonable mitigation measures that would have minimal impact on the corridor resources. However, constructing parking lots or structures could have significant unforeseen environmental impacts on corridor resources, and their analysis should be a part of this documentation. Either complete the necessary environmental documentation now and determine impacts, or remove the "addition of parking supply (e.g. new parking lots)" from the list of mitigation measures. Modify text accordingly.

Chapter 4

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Page 4-26 Mitigation
The original language of the DEIS must be added to the end of the Mitigation paragraph. The language includes the phrase, "...as well as procedures outlined in the *Real Estate Management Plan (RTD 2008q)*. The plan includes the following measures related to relocations:"

Page 4-57 (Mitigation Summary)
With the exception of the first sentence, include Mitigation Summary found on p. 4-56 of the DEIS.

Page 4-59 Visual and Aesthetic
HTS sent FTA HQ for review a pdf of chapter 4.8 Visual and Aesthetic Conditions dated 10/2/09. Review of the 10/9/09 AFEIS demonstrated enough changes in the Visual and Aesthetic narrative to warrant continued discussion on this chapter. HTS can agree to include the 10/2 pdf version of the Visual and Aesthetic chapter in the final version of the FEIS or have a line-by-line conversation on the chapter with FTA staff.

Page 4-111 Noise and Vibration
HTS sent FTA HQ for review a pdf of chapter 4.10 Noise and Vibration dated 10/2/09. After review, HQ staff found that this chapter met the FTA requirements for proper methodology, determination of impacts, commitment to mitigation and narrative explanation. The pdf has been included in its entirety in the 10/9/09 AFEIS and is acceptable.

Page 4-130 Mitigation
Mitigation measures include words and phrases as follows: "where possible; train employees; institute waste minimization programs; appropriate; periodically evaluate; maximum extent practicable." Mitigation measures must be specific if they are going to mean anything. Discuss specifics of plans related to waste issues and cross reference HM+ W-9.

Page 4-176 last paragraph
Under the Federal discussion, include a narrative of the various AA studies and how the required 106 screening analysis led to the selection of the current LPA. We have requested that an Alternatives Environmental Screening Matrix be constructed that demonstrates the probable environmental impacts of alternatives. Please refer to this matrix.

Page 4-177 last paragraph
We have been unable to locate the February 4, 2008 concurrence from the SHPD on the APE. Why is it that the above-ground cultural and historic properties are "one parcel deep?" By limiting the "below-ground" APE to "direct ground disturbance" (top p. 4-178) we give validation to OIBC's charge that we haven't done 4(f) because all of the necessary analysis on all of the alternatives is pushed-back to a post ROD phase.

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Page 4-178
"…the rating system says nothing about NRHP eligibility of potential archeological resources." What does this mean?

Page 4-178
In the discussion of Hawaii Act 50, how do cultural resources differ from archeological resources such as burials? Is there any difference? Is a Cultural Impact Assessment required for the location of unknown burials? If not, describe how the Archaeological Impact Study (AIS) required for the location of unknown burials differs from a Cultural Impact Assessment.

Page 4-179
Explain why native Hawaiian burials are not historic resources because they are not NRHP eligible. Cite the SHPD's active concurrence on eligibility.

Page 4-180
Two reports are cited as being present in Appendix F. Review of the accompanying CD reveals that no technical reports are present.

Page 4-182 Archeological Resources in the APE
Beef up this section. Describe how local custom and law require that iwi kupuna not be disturbed by human activities and must remain in place. Explain how the discovery of known and unknown iwi kupuna are treated under local law. Explain why Native Hawaiian groups prefer AIS before-hand and not after-the-fact.

Page 4-201 second paragraph
Remove language regarding "…mitigation discussed in this section is meant to be a guideline…" This is an FEIS. Mitigation measures are defined and committed to by the grantee. Remove this sentence. Change "could" to "will" in the rest of this section. Mention that a Project Construction Noise and Vibration Mitigation Plan incorporating a variety of N&V mitigation measures will be developed prior to construction. (see mitigation measure C-32 below)

Chapter 5

Page 5-2 Introduction
Explain why native Hawaiian burials are not considered 4(f) resources in this case.

Page 5-3 last paragraph
Where is SHPD notifications of *de minimis* findings?

Page 5-4
Remove screening discussion from Description of the Project and create a subchapter. Describe screening in relation to 774.3(c)(1) & (2). Refer to the Alternatives Environmental Screening Matrix (Chapter 2) if need be.

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Page 5-6 archaeological resources discussion
If Section 4(f) does not apply to burials, why are you mentioning burials? Are artifacts treated differently than burials? Wouldn't you simply say that 4(f) does not apply because burials are not NRHP eligible, and sites with artifacts are valuable chiefly only for data recovery?

Page 5-39 Alakea Street
The argument that this station/touchdown alternative is not prudent or feasible remains unpersuasive. A station entrance could be constructed with touch-downs along Nimitz Highway as well as Alakea Street. This strategy would dilute pedestrian traffic along Alakea Street and diminish the presumed pedestrian/auto conflicts at the Pacific Guardian Center. While the statistical evidence presented here to justify a determination of a ped/auto safety issue is weak, no quantitative evidence whatever is presented to justify the same determination for a touchdown in front of the Harbor Square Building. The same engineering solution could be adopted on the SE side of Alakea Street as on the NW side.

The preparers have conveniently avoided all possible measures to minimize harm to the resource as evidenced by their original request for a *de minimis* determination on this property. The reluctant inclusion of an acceptable avoidance alternative in the DEIS demonstrates that minimal planning has been undertaken to minimize harm to the 4(f) property. HQ believes that the Alakea Street Station avoidance alternative presents the least overall harm to the Dillingham resource for the following reasons (774.3(c)(1)):

- The ability to mitigate the adverse impact to the 4(f) resource is clearly present,
- This is a very significant 4(f) property,
- There appears to be no demonstrable cost difference between the preferred alternative and the avoidance alternative,
- It is reasonable mitigation that <u>substantially reduces the adverse impact on the resource</u> from a direct use to a constructive use and therefore reduces the severity of the harm to the resource, and
- The avoidance alternative meets the P&N of the project.

Appendix I

A-1 Section 4.4.3 Reworded Mitigation Measure
<u>Where relocations will occur, compensation will be provided to affected property owners, businesses and residents in compliance with all applicable Federal and State laws and the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act (49 CFR 24), and in accordance with the Real Estate Acquisition Management Plan (RTD 2008q).</u>

A-1
Cross reference Topic "N"
Cross reference Final EIS Section "4.7.2"

A-7 Section 4.5.3

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Add text, "…and will be consistent with the Section 106 Programmatic Agreement."

CF-9 4.5.3 & Table 4-6; 4.7.3
Add text, "…and will be consistent with the Real Estate Acquisition Management Plan (RTD 2008q).

V-1 4.8.3
Add text, "…and will be consistent and in accordance with the Section 106 Programmatic Agreement."

Add new V&A measure.
V-5 The City shall follow the Design Standard requirements set forth in Section IV of Section 106 Programmatic Agreement (PA) including the completion of neighborhood design workshops the review of preliminary designs by the PA signatories and concurring parties.

PI-1 4.1
Add text, "…as described in the Section 106 Programmatic Agreement."

N+V-3 Reworded Mitigation Measure
Upon project start-up, field measurements at noise impacted structures will be completed. Should noise impacts exceed FTA noise impact levels, further treatment mitigation may be carried out on the receivers with the authorization of the property owners.

N+V-4 Community Noise Variance
Why are you obtaining a noise variance? A noise variance would not regulate construction times and activities. It would allow the project related activities to exceed the noise restrictions contained in the current ordinance – otherwise, there is no need to obtain a "variance." Either remove N+V-4 from Appendix I or change "variance" to "permit." The preparation of a Construction Noise and Vibration Mitigation Plan based upon the existing ordinance is all that is necessary.

CR-2 4.18.11 Appendix H
Describe this mitigation measure is a manner consistent with: 106 PA, Stipulations, III Identification and Protection of Archaeological Sites and Burials.

HM+ W-2 through W-8 4.12.3
See comment above on page 4-130. These appear to mere suggestions and not real mitigation measures. Make them more specific and cross reference them to W-9?

C-27 (CR) 4.18.11 Appendix H
Add text reference to 106 PA, Section III, E.(1), Identification and Protection of Archaeological Sites and Burials.

C-28 (CR) 4.18.11 Appendix H
Add text referencing appropriate parts of 106 PA.

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C-29 (CR) 4.18.11 Appendix H
Add text referencing appropriate parts of 106 PA.

C-31 (CR) 4.18.11 Appendix H
Add text referencing appropriate parts of 106 PA.

Add Mitigation Measure C-32
Temporary construction noise and vibration impacts are anticipated at sensitive receptors along the corridor. During final design, the City and County of Honolulu, in cooperation with its contractors, will create and carry out a Construction Noise and Vibration Mitigation Plan using any and all of the mitigation measures defined in the FEIS and recommended by FTA in its Transit Noise and Vibration Impact Assessment guidance (2006). Numeric limits and monitoring measures will be developed to minimize noise vibration impacts. Vibration mitigation strategies will be included in the Construction Noise and Vibration Mitigation Plan.

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