
From: Barr, James <FTA>
To: Matley, Ted <FTA>
CC: Sukys, Raymond <FTA>; Carranza, Edward <FTA>; Marler, Renee <FTA>; Bausch, Carl <FTA>; VanWyk, Christopher <FTA>; Atkins, Julie <FTA>; Fisher, Ronald <FTA>
Sent: 9/29/2008 5:36:44 AM
Subject: FW: Native Hawaiian 106 Issue

Ted:
After internal discussion, Joe's wrap-up basically reflects HQ conclusion.
Let's see what HTS comes up with after it's discussion with FHWA.
Jim

From: Ossi, Joseph <FTA>
Sent: Thursday, September 25, 2008 6:00 PM
To: Barr, James <FTA>; VanWyk, Christopher <FTA>; Atkins, Julie <FTA>
Subject: RE: Native Hawaiian 106 Issue

The ACHP regulation includes the following definition:

"(s)(1)*Native Hawaiian organization* means any organization which serves and represents the interests of Native Hawaiians; has as a primary and stated purpose the provision of services to Native Hawaiians; and has demonstrated expertise in aspects of historic preservation that are significant to Native Hawaiians."

I would think that the OIBC would qualify.

The ACHP website says:

"Role of Native Hawaiian organizations in resolving adverse effects (Step IV)

- The agency consults with Native Hawaiian organizations to develop and evaluate alternatives to avoid, minimize, or mitigate adverse effects.
- Native Hawaiian organizations may request ACHP to participate in consultation.
- The agency may invite a Native Hawaiian organization to sign or concur with the Memorandum of Agreement (MOA). Refusal to sign or concur does not invalidate the MOA."

OIBC must be included in the consultation. Whether or not they concur in the MOA is optional.

Joe Ossi
FTA Office of Planning and Environment
(202) 366-1613

From: Barr, James <FTA>

Sent: Thursday, September 25, 2008 3:52 PM

To: VanWyk, Christopher <FTA>

Cc: Bausch, Carl <FTA>; Ossi, Joseph <FTA>; Atkins, Julie <FTA>; Matley, Ted <FTA>; Sukys, Raymond <FTA>; Carranza, Edward <FTA>; Marler, Renee <FTA>

Subject: Native Hawaiian 106 Issue

Redacted

Ted-

Good day! Please go forward with your meeting as scheduled for Thursday. I do not want to hold up the process in any way. Jim and I have talked about my concerns with regard to making certain that the guaranteed government-to-government relationship is being maintained by FTA and that decisions regarding cultural/archeological resources of Federally-recognized Tribes are not being 'delegated' to a State body. As you are well aware, we need to ensure that the proper representation for any affected Federal Tribe is 'at the table'.

Thanks and I would be interested in the outcome of the meeting. Best regards - Julie

Julie A Atkins, PhD

Office of Planning and Environment

Federal Transit Administration

1200 New Jersey, S.E. E45-335

Washington, DC 20590

202-366-4491

202-493-2478 (fax)

From: Barr, James <FTA>
Sent: Wednesday, September 17, 2008 9:04 AM
To: Matley, Ted <FTA>; Carranza, Edward <FTA>; Sukys, Raymond <FTA>
Cc: Fisher, Ronald <FTA>; Miyamoto, Faith; Ossi, Joseph <FTA>; Atkins, Julie <FTA>; Bausch, Carl <FTA>
Subject: RE: Honolulu High-Capacity Transit Corridor Project

Ted:

This issue can be complicated and sensitive. Federal lands are involved, so NAGPRA is at issue as well as 106. We will have to figure out how to involve the Army and Navy officials. I don't know how sensitive the OIBC is - my experience in New Mexico was that the tribes did not interact well with cities and towns but would only deal with the Feds.

I'm wondering if the Hawaii DOT experience can be helpful, or perhaps the local office of FHWA. They have probably had dealings with the OIBC and NAGPRA and how they all interface with local Federal lands officials and SHPD.

Maybe Faith can suss this out for us.

This definitely warrants a call and some extensive diplomacy.

Jim

From: Miyamoto, Faith [mailto:fmiyamoto@honolulu.gov]
Sent: Tue 9/16/2008 3:59 PM
To: Matley, Ted <FTA>
Subject: Honolulu High-Capacity Transit Corridor Project

Hi Ted –

On Wednesday, September 10, 2008, we met with the Oahu Island Burial Council (OIBC); this is a Governor appointed body whose primary responsibility is to determine preservation or relocation of previously identified Native Hawaiian burial sites. In order to expedite the OIBC's action upon our project's encountering bones, we are proposing that a Section 106 memorandum of agreement (MOA) be developed that addresses the discovery of bones or archaeological items. The OIBC is asking that they be an invited signatory party, which the City supports. We, therefore, ask that FTA fully consider their request. Also, what about some of the other consulting parties, such as the Army or Navy? Should they also be a signatory party, in the event that bones are found on their lands? I was advised that if that was the case, then NAGRA would be involved. Do you think we should have a conference call regarding this matter? The signatory party versus concurring party question needs to be resolved before the OIBC determines their participation in the MOA.

Also, just a few other items to keep you up-to-date on what we are up to:

1. Thanks for the response from Jim Barr regarding the "Environmentally Preferable Alternative". We are reworking our revision to the ADEIS.
2. On Thursday, September 18, 2008, we will be providing a briefing to the FHWA Hawaii Division (cooperating agency). HDOT will also be present.
3. Last week, I received an email message from Chris Porter of Cambridge Systematics. He reviewed our New Starts Land Use Templates last year. He requested a copy of our 2010 submission. I wrote back to him that we have not updated our templates because there were no significant changes to the project. He responded that he would check with FTA regarding the need for updates.
4. I have been coordinating with FHWA and HDOT regarding sharing the cost of bringing an FHWA person to Honolulu to provide training on the Uniform Relocation Act. He is Dave Leighow who works out of FHWA's Oregon office. I thought I should bounce this off of you before we proceed even further in our discussions. Do you think we should have someone from FTA as a trainer with Dave?

Faith Miyamoto
Department of Transportation Services
City & County of Honolulu
(808) 768-8350
fmiyamoto@honolulu.gov

AR00153587

James Barr
Environmental Protection Specialist
Federal Transit Administration
1200 New Jersey Ave. S.E.
4th Floor - East Building
Washington, DC 20590
Phone 202-493-2633
Fax 202-366-2478