From: James.Barr@dot.gov
To: Elaine_Jackson-Retondo@nps.gov
CC: Miyamoto, Faith; Ted.Matley@dot.gov; Carl.Bausch1111@dot.gov
Sent: 10/21/2009 4:21:28 AM
Subject: RE: Honolulu High Capacity Transit Corridor
Attachments: 05 Landscape.pdf; 05.pdf

Elaine:
The Administrative FEIS should have been sent to NPS for review and comment.
Here is the relevant 4(f) chapter from the October AFEIS.
Please let me know if need anything else.
Jim

-----Original Message-----
From: Elaine_Jackson-Retondo@nps.gov [mailto:Elaine_Jackson-Retondo@nps.gov]
Sent: Monday, October 19, 2009 8:28 PM
To: Miyamoto, Faith
Cc: jeff@jn-architects.com; amy@aiahonolulu.org; aspencer@hawaii.edu; kiersten@historichawaii.org; katie@historichawaii.org; chazinhawaii@aol.com; sherry_campagna@hotmail.com; frank_hays@nps.gov; elaine_jackson-retondo@nps.gov; Melia_Lane-Kamahele@nps.gov; taahine.hina@gmail.com; keabad@ksbe.edu; kawikam@hawaii.rr.com; Pua.Aiu@hawaii.gov; Nancy.A.McMahon@hawaii.gov; susan.y.tasaki@hawaii.gov; bsemmer@achp.gov; Matley, Ted (FTA); Barr, James (FTA); carl.bausch@fta.dot.gov; Sukys, Raymond (FTA); deepak@hcdaweb.org; keolal@oha.org; malamapono@aol.com; lani@aukahi.com; brian_turner@nthp.org; elizabeth_merritt@nthp.org; john.muraoka@navy.mil; pamela.takara@navy.mil; tware@honolulu.gov; Sokugawa, Kathy K.; mmcdermott@culturalsurveys.com; hhammatt@culturalsurveys.com; arakimataemon@aol.com; halealoha@wave.hicv.net; Hogan, Steven; Foell, Stephanie
Subject: Fw: Honolulu High Capacity Transit Corridor

Faith,

The October 2 draft of the HHCTC PA has been improved through consultation during the last few weeks. The process has been intense and at times very rushed. Historic Hawaii Foundation has suggested that the document would benefit from additional editing and revisions and has requested the opportunity to review the document one more time before the final is distributed for signature. We concur with that request. Our comments on the October 2 draft PA follow our general concerns and questions.

Regards,
Elaine

General Comments

As the Section 106 consultations moves forward we would like to voice the following questions and concerns.

RFP
The City and County of Honolulu issued Part I of an RFP for Phase I of the HHCTC project (East Kapolei to Pearl Highlands) in February 2009. After reviewing the RFP, we understand that the February RFP Part I was requesting Qualification Proposals to determine a priority list of up to the top four highest ranked firms. You have informed us that Part II of the RFP was subsequently issued, is now closed and in the procurement phase. NPS's has not seen Part II of the RFP; we were told that we could not see it since it is currently going through procurement. Therefore, our questions and concerns are based on the information available to us in Part I of the RFP.

Closure of the RFP prior to conclusion of the Section 106 process precludes any opportunity for consulting parties to request that contractors

submitting bids have demonstrated experience and have the necessary persons on staff to protect historic and cultural resources; this is particularly crucial in this project given the number of adversely effected historic resources, the potential for inadvertent discoveries and the fact that this is a design-build project. We also are concerned that the issuance of an RFP prior to conclusion of the section 106, 4(f) and NEPA consultation may have presumed a least harmful alternative prior to completion of documentation and analysis.

Part I of the RFP states, "It is anticipated that the guideway would be precast segmental girder construction and the standard double track guideway section would be single-cell trapezoidal box girder." During one of the September consultation meetings, consulting parties were told that there was the potential to design the system with a thinner profile. Since the RFP describes an anticipated system and the bids are in, is it too late to expect a different type of profile?

Are any of the possible TCPs located in the first phase of the project? If yes, how will the design build contractor's work be coordinated with conducting the studies? If eligible, how will the design work of the contractor be informed to avoid, minimize, or mitigate effect?

Were the contractors who supplied bids provided the Historic Effects Document and provided specific information about the historic resources in the corridor?

Burials
We are concerned that the Archeological Inventory Survey Plan and the execution of this plan for Phase 4 is scheduled to take place long after construction has begun and two phases of the project will be so far along that the ability to avoid impacts will be extremely limited. Is it possible to execute the plan long before construction of Phase II has begun? If not, what assurances are there from the project team and FTA that there are alternatives that could avoid or minimize impact?

Dillingham Building
During the Sept 23 PA meeting, there was a somewhat lengthy discussion about the Dillingham Building, which has been determined eligible for listing on the NRHP. Currently, the project is planned with a station very close to and in the courtyard of the building. There was clear disagreement between the project team and FTA headquarters whether one of the avoidance alternatives for this station should have been adopted to avoid the adverse effect to the property. This was not adequately resolved during the meeting, and calls into question whether it is necessary to adversely affect this resource. Please provide additional information regarding this issue.

4(f)
We reiterate our request to have an opportunity to review the revised draft 4(f) analysis since the draft in the DSEIS recognized adverse effects to only 4 historic properties and the PA includes adverse effects to 33 historic properties.

This project will produce a tremendous work load for consulting parties
The expedited schedule and scale of the project require the production of multiple plans, studies, reports and other products in a short expanse of time. Almost all of these products have a 30-day review period for consulting parties per the PA. It does not seem that the project team has approached the production and review of these products in a coordinated fashion. Consulting parties will be inundated with reviews and overlapping 30-day review periods that could result in an unrealistic workload for most, if not all of the consulting parties. The schedule that will be produced within 90 days of signing the PA per stipulation XII.B.2, will provide specific information (specific dates, milestones etc.), however, it will not ensure that the schedule deadlines are realistic. We are reiterating our request for a table or matrix that shows all of the products that will need review and the relative time schedule for review. The parties need to determine whether there is a need to adjust review

times (where permitted) or address the workload issue in some other manner through the PA.

PA Specific Comments

Page 3 (Whereas Clause regarding direct and indirect effects) - This clause should be deleted from the PA since direct and indirect effect are NEPA, not NHPA regulatory nomenclature and because the terms are not being accurately used here. Even in NEPA terms, the 33 adverse effects are direct effects. Here is an excerpt from the regs:

Title 40: Protection of Environment
PART 1508-TERMINOLOGY AND INDEX
§ 1508.8 Effects.
Effects include:
(a) Direct effects, which are caused by the action and occur at the same time and place.
(b) Indirect effects, which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.

Page 5 Section I - Please add the following as Stipulation I.G. "NPS Responsibilities - Accept for those documents set forth in stipulations V.C and VI.B of this agreement, NPS may at its sole discretion review and respond to any of the other documents, if NPS chooses to respond it will do so in a timely manner. Lack of response should not be taken to indicate an opinion by the NPS.

Page 5; Section II.B.; line 4 - suggest replacing "acceptable mitigation" with "avoidance, minimization and mitigation measures."

Page 5; Section II.B.; line 7-8 - The statement that "The City shall complete all related mitigation prior to undertaking each construction phase that would adversely affect a TCP" still does not address the issue of foreclosing opportunities for avoidance and minimization.

Page 7; Section III.B.1 - This section states, "Within 60 days of execution of this PA, the City shall consult with the OIBC, lineal and cultural descendents, and other interested parties that are identified in discussion with OIBC, about the scope of investigation for the AIS Plan for construction of Phase 4." Why only phase 4; is that the only area where there may be burials? Wouldn't it be prudent to complete the AIS and know where burials are located ASAP? If it is only to be completed prior to beginning final design for phase 4, there may be little opportunity for avoidance.

Page 7; Section III.B.2 - This section states, "The City shall complete the AIS for Phase 4 (Middle Street to Ala Moana Center) prior to beginning Final Design for that area. Won't there already be construction ongoing at this point; shouldn't this come before start of construction?

Page 7; Section III.B.3 - This section states, "The City, in coordination with the OIBC, lineal and cultural descendents, and other interested parties that are identified in discussion with OIBC shall complete a draft approach for consultation regarding treatment of . . . The approach shall address at minimum a process for communication of any discoveries, definitions that will be applied to the Project, " Should this be an agreement, not quite certain what an "approach" would include. Can't some of this be spelled out here in the PA? At minimum, shouldn't it also include a time frame for notification?

Page 7; Section III.B.5 - Do the particulars of the consultation with the signatories need to be outlined in this clause?

Page 7; Section III.C Lines 1-5 - The first 2 sentences read, "The City shall conduct archaeological fieldwork as presented in the AIS Plan. For each construction phase, the archaeological fieldwork shall be completed in advance of the completion of final design so that the presence of any sensitive archaeological sites/burials discovered during fieldwork can be addressed during final design.

We suggest rewriting the second sentence to read: "For each construction phase, the archaeological fieldwork shall be completed in advance of the completion of final design so that so that the final design may incorporate avoidance and minimization measures for any sensitive archaeological sites/burials discovered during fieldwork can be addressed during final design."

Page 8; Section III.C.4 This clause reference archeological method. Is there an archeological standard that should be referenced?
When is this AIS plan II.C be completed? The AIS mentioned in II.B. 2. references completion prior to final design of phase 4

Page 8; Section III.E - Do additional parties need to review the mitigation plans. As written, only SHPO is reviewing the plans.

Page 9; Section III.E.2 - Paragraph 2; line 1 - What is the limited distance - a couple of feet, 10-20 feet? Please specify.

Page 9; Section III.E.2.a - We thought data recovery was not allowable as mitigation. This is a question for ACHP.

Page 10; Section IV.A - The design guidelines should also apply if station is adjacent to a NR eligible or listed property or district.

Page 10; Section V.A - Shouldn't the context studies take the form of Multiple Property Documentation Forms? I believe that I asked this question before. If done as an MPD the form would go to the NR and provide the context for subsequent nominations.

Page 11; Section V.A.4 - It isn't clear why the draft context studies are only going to SHPO and why interpretive signage is included in this stipulation. Also, if copies are not provided to other parties how will they know to comment and send comments for the city's consideration?

Page 11; Section V.B.3 - Since CLR's are treatment documents, wouldn't the CLRs be completed prior to completion of design? Otherwise the document is not informing decisions. As proposed, only the photography and field work will be complete prior to construction. This doesn't make sense. If they are not done before design, then why do them?

Page 11; Section V.B.4 - Once again, not certain why only SHPO will have the opportunity to review.

Page 11; Section V.C.1 last line - The last line reads, "No construction activities shall be undertaken to the resources prior
to approval from NPS Regional staff." Please revise the last part of the sentence to read " . . . prior to approval of the required documentation by NPS Regional staff."

Page 12; Section V.D; last line sentence - The last sentence reads, "The fulfillment of Stipulations V.C and V.D will ensure that all adversely affected resources are documented using large format photography. The current draft, as written, only ensures large format photography for stipulation V.C.

Page 12; Section V.F - Do you need to specify the medium (i.e. digital or film)?

Page 13; Section VI.A.4 - Should there be a minimum goal for the number of nominations included in the MPS?

Page 14; Section VI.C.4 - I believe "draft nomination form" should read "draft nomination forms."

Page 14; Section VI.C. - This stipulation should be numbered VI.D. (VI.C occurs twice).

Page 14; Section VI; last line - the last line seems redundant to VI.A.3.

Page 19; Section X.E - This stipulation addresses inadvertent damage to historic properties. We believe it is very important that a plan for protecting/preventing damage to historic resources should be required in the RFP.

Page 20; Section XI.A - The second sentence reads, "The City will begin the consultation process with the signatories and resolve any adverse effects in accordance with Section 106 of the National Historic Preservation Act within a period of 3 days." The language in the next sentence suggests that resolution is defined as amending the PA. 3 days is not enough time for resolution. If the 3 days only refers to start of consultation then the sentence should be revised; otherwise more time should be allotted for resolution.

Page 20; Section XI.C - Should this section reference NAGPRA for any burials discovered on Federal land?

Page 22; Section XIII.B.2 - The first sentence reads, "Within 90 days of the execution of this PA, the City shall develop a schedule for the implementation of the provisions of the agreement." There are some instances in the PA where commencement of a study or inventory will begin within 30 days (60 days before the schedule is produced). Where there is a known commencement date, even if it is relative to signing of the PA, there should be a matrix of some sort for review and discussion. This matrix would begin to illustrate the number of documents, plans or reports that consulting parties may be requested to review at the same time and may indicate a need to adjust review times. This follows our earlier request for a schedule or table.

Page 24; the NPS signature line currently reads:

Regional Administrator
National Park Service

Please revise to read:
Pacific West Regional Director
National Park Service

Page 24; bottom of page - I believe Attachment 1 is referred to as Attachment A in one of the early Whereas Clauses and there is a reference to Appendix A. Please provide all attachments and appendices for signatory and consulting party review.

Elaine Jackson-Retondo, Ph.D.
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