From: Judy Aranda
To: Ware, Terrance
CC: Zelasko, Elizabeth (FTA); Spurgeon, Lawrence; Zaref, Amy; Miyamoto, Faith
Sent: 5/25/2010 2:12:23 PM
Subject: NPS PA Comments sent Last Week
Attachments: Section 106 early-start activities.doc

Terry: FTA asked that I forward this email and attachment to you concerning the status of the Programmatic Agreement. Evidently they did not have your email address.

Thanks.

From: elizabeth.zelasko@dot.gov [mailto:elizabeth.zelasko@dot.gov]
Sent: Tuesday, May 25, 2010 1:58 PM
To: bsemmer@achp.gov; deepak@hcdaweb.org; keolal@oha.org; malamapono@aol.com; lani@aukahi.com; brian_turner@nthp.org; jeff@jn-architects.com; amy@aiahonolulu.org; aspencer@hawaii.edu; 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; john.muraoka@navy.mil; pamela.takara@navy.mil; mmcdermott@culturalsurveys.com; arakimataemon@aol.com; halealoha@wave.hicv.net; kiersten@historichawaii.org; elizabeth_merritt@nthp.org
Cc: Ted.Matley@dot.gov; Raymond.Sukys@dot.gov; Leslie.Rogers@dot.gov; Judy Aranda; zaref@pbworld.com; Edward.Carranza@dot.gov; Carl.Bausch1111@dot.gov; fmiyamoto@honolulu.gov
Subject: NPS PA Comments sent Last Week

Good afternoon,

Last week, Elaine Jackson-Retondo of the National Park Service (NPS) shared with you, the consulting parties for the Honolulu High Capacity Transit Project Evaluation, comments and questions on the PA and an October version of the Section 4(f) chapter. FTA provided preliminary responses in an email to their comments and questions and held a productive teleconference to review them in more detail. Because it is my understanding that other consulting parties may have similar questions and comments as the NPS, I am sharing with you FTA's responses, slightly revised to reflect our discussion, on the questions regarding the Section 106 process. The Section 4(f) Chapter had undergone revision since the October draft and is undergoing another round of revisions in response to NPS and other FTA comments. Because of the revisions and because the focus of the consulting parties is on Section 106, I am not including our response to the Section 4(f) comments to minimize confusion.

Please see our Section 106 responses below.

As a project update, the FTA is currently reviewing an administrative draft Final EIS for the Honolulu High Capacity Transit Project. We have sent the SHPD's office a request for concurrence on the determinations of eligibility for properties within a modified APE for the minor alignment shift near the Honolulu International Airport. FTA determined that no new properties in this modified APE were eligible for the National Register. FTA has not received a formal response from the SHPD's office yet.

Please contact me if you have questions. Also, please forward to Terrance Ware, I did not have his email address.

Thank you,

Liz

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Section 106 PA Comments

In your email, NPS expressed concerns raised by the OIBC and other consulting parties regarding the phased archeological investigations. FTA and the City have listened to the concerns raised by OIBC and other consulting parties regarding archeological investigations during Phase IV of the Honolulu High Capacity Transit Corridor Project (Project). We understand that intrusions into native Hawaiian burial are considered to be extremely offensive and disrespectful and we take the responsibility of potentially affecting native Hawaiian burials very seriously.

The purpose of the Project is to provide improved mobility for persons traveling in the highly congested east-west transportation corridor from Kapolei to the Punchbowl-Sheridan-Date area. The Downtown area and the Punchbowl-Sheridan-Date area both contain a high number of jobs. The proposed Project terminus, the Ala Moana Center, is the state's largest shopping complex and a major employment center. The major destinations of current bus ridership include the Downtown and Punchbowl-Sheridan-Date areas. In addition to being transit destinations, these areas also contain a large number of transit dependents and are locations where a number of transit trips originate. The City's transportation studies have also identified the Downtown, Punchbowl, and the Kakaako neighborhood, which is located between the two other areas, as places with substantial population and employment growth over the next 20 years.

The FTA and the City understands that while these areas contains major urban transportation destinations, these areas also contain natural sand deposits where there is a high potential to encounter native Hawaiian burials. To better inform the prior transportation studies, the City completed an archaeological review of all potential alignments that included evaluation of soils, prior habitation, and literature reviews or prior discoveries. Based on this review, the City decided on a general alignment that served the Kakaako neighborhood with the lowest risk of encountering native Hawaiian burials.

This is an area where the potential of encountering native Hawaiian burials is high. It is also an intensely urban area through which the alignment would follow paved roadways. Conducting archeological surveys would be highly disruptive to potential native Hawaiian burials and residents of these neighborhoods and would be very costly. Deciding to elevate the proposed Project in an exclusive right-of-way limits the amount of disturbance to the placement of foundations approximately 8 feet in diameter spaced between 100 to 150 feet apart. To limit the potential impacts on the residences and native Hawaiian burials, the City has committed to conducting archeological investigations in locations where foundations would be placed. This would limit the area disturbed for archeological investigations and construction to potentially less than ten percent[1] of what would be disturbed if archeological investigations were conducted for 100 percent of the alignment.

During the NEPA and Section 106 process the FTA limits the level of design and engineering that project sponsors can conduct on their projects so as to not prejudice the consideration of alternatives, including the no action alternative. The placement of column foundations is a design activity that requires a level of design that typically takes place after the NEPA and Section 106 processes conclude. To balance the current level of project design, the desire to limit disturbance of

native Hawaiian burials and residences in Phase IV of the project area and the potential transportation benefits that would accrue from the proposed Project, FTA, in consultation with the consulting parties, decided to develop a detailed approach in the Section 106 Programmatic Agreement (PA) for conducting archeological investigations for Phase IV for the project. As you know, the consultation process involved more than thirty groups, organizations, and federal, state, and local agencies.

The City's proposed schedule for the Project would have construction starting in 2013 for Phase IV. Although, the development of more detailed design, and therefore archeological investigations, for the last construction phase would have typically been delayed until closer to the anticipated construction start date, the City has committed to starting the process much earlier. As stated in the PA,

> "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. The City shall provide Preliminary Engineering plans and existing utility maps to assist in the scoping process. The AIS Plan will provide for investigation of the entire Phase 4 area, including from Waiakamilo Road to Ala Moana Center. In the portion of Phase 4 with the greatest potential for resources, the AIS Plan will evaluate all areas that will be disturbed by the Project. The AIS Plan will include a review of historical shoreline location, soil type, and, where indicated by conditions, the survey measures listed in Stipulation III.C, including subsurface testing, for each column location, utility relocation, and major features of each station and traction power substation location based on Preliminary Engineering design data."

The plan developed through this consultation, would need to be submitted to the Hawaii State Historic Preservation Division (SHPD) within four months of execution of the PA. Archeological investigations would start after the SHPD's office approves the plan within 30 days of receipt. The City would be required to complete the archaeological investigations during a period of time where there is still flexibility in project design. In addition, within six months of the execution of the PA, the City, in coordination of the OIBC, shall complete a draft protocol for consultation regarding treatment of any native Hawaiian burials identified during the archaeological inventory survey. The protocol would also include a workflow of avoidance alternatives through the relocation of columns, change in column design from a center alignment to a straddle bent or other alternatively-supported design, modification of span length, and alternate utility locations.

Our Section 4(f) regulation states at 23 CFR 774.11(f) that Section 4(f) applies to archaeological sites eligible for the National Register, which could include any native Hawaiian burials, even if the site is discovered late in project development or during construction. Upon discovery, FTA would order a pause in the design or construction work on that project location while FTA and the City of Honolulu conducted a section 4(f) evaluation, including an evaluation of the eligibility of the site, the development and evaluation of alternatives that would avoid the newly discovered, eligible site, and consultation with the Department of the Interior, SHPO, and other Officials with Jurisdiction in accordance with the Section 4(f) regulations.

Although under Hawaii's native Hawaiian burial law, the OIBC only has primary jurisdiction over the fate of native Hawaiian burials at rest in "previously identified" burial sites, the PA specifies that any newly discovered native Hawaiian burials will be treated as previously discovered. This ensures that the OIBC remains intimately involved in any discussion related to the treatment of native Hawaiian burials.

Regarding NPS concern about the number of 30 day review periods identified in the PA, as a party that would be involved in the reviews, the FTA shares some of your concern. Attached to this email is a preliminary schedule of commitments for activities within the first 90 days after the execution of the PA. The City distributed this initial schedule to the consulting parties. As mentioned in the PA, a schedule for the remaining elements will be developed within 60 days of

implementation as outlined in Stipulation XIII(A) and agreed to by the consulting parties.

In your email, you requested a revised Historic Effects Report. In the April 2009 Historic Effects Report prepared for the Project, potential effects to 81 identified NRHP-listed and eligible properties within the Project's APE were evaluated using the criteria of adverse effect outlined in 36 CFR 800.5. FTA determined that 22 properties were adversely affected by implementation of the Project. On July 22, 2010, the SHPO singled out 11 additional properties adversely affected from the 81 properties identified in the Historic Effects Report. Based on SHPO's letter, FTA determined that the Project will have adverse effects on 33 (the original 22, plus SHPO's 11) historic properties. The SHPO did not provide the basis for its 11 adverse effect determinations. Therefore, general effects to the resource are assumed.

It is my understanding that there was a lot of discussion among the consulting parties on boundaries and naming last fall regarding the Makalapa Navy Housing Zone. Since that time there are been further communications between the Navy, the City, and the SHPD confirming the boundaries and the approach to evaluating eligibility and assessing effects. In response to a letter sent to the Navy by the City on December 31, 2009, the Commanding Officer of the U.S. Navy at Pearl Harbor sent a letter on January 25, 2010, to the City clarifying the historical and cultural significance of Makalapa. In his letter of the Commander stated that the station's "…Integrated Cultural Resources Management Plan (ICRMP) provides guidelines for the appropriate treatment of cultural landscape features, buildings and structures." The letter goes on to state that "… the ICRMP should not automatically be assumed to indicate a specific historic or cultural significance."

The Navy's ICRMP for the Pearl Harbor Naval Complex has depicted a single Makalapa Housing Zone, with two distinct sub-areas since 2002. According to information the City obtained from Mason Architects, consultants who prepared the Navy's ICRMP, "the housing types are different and they originally housed different populations, with Little Makalapa housing civilians and the Makalapa proper housing Naval officers' families." The City, with the concurrence of the SHPD, chose to evaluate the two housing areas as separate districts rather than a single Makalapa Housing Zone. It is the Commander's opinion that, "the Navy does not disagree with the approach taken by the City." With the concurrence of the SHPD and the Navy, FTA finds that the Makalapa Housing Zone area consists of the separate contributing sub-areas of Makalapa Navy Housing (Makalapa) and Little Makalapa Navy Housing (Little Makalapa).

FTA determined that the Project guideway would have an adverse effect on the Makalapa sub-area. The Makalapa Navy Housing sub-area has a moderate level of integrity of feeling. It conveys its origins as a 1940s military housing complex despite changes to the houses. The guideway would introduce a substantial new element into the Makalapa sub-area's setting that is not in keeping with the area's residential appeal. While the Project would have no effect on the integrity of Makalapa's location, design, materials, workmanship, and association, its setting would be altered by the guideway. The Project would diminish the property's expression of its historic residential nature and views from the backyards or residences along Kamehameha Highway would be adversely affected by the elevated guideway. No audible or atmospheric effects to the property were identified.

The proposed Pearl Harbor Naval Base station would be located outside of the Makalapa sub-area NRHP boundary and would not adversely affect the historic property.

The FTA determined that the Project guideway would have no adverse effect on the Little Makalapa Navy Housing, which is adjacent to Kamehameha Highway. There would be no adverse effect to the integrity of location, design, materials, association, and feeling. Also, there would be no adverse effect to the integrity of setting. Within the NRHP boundary, the Project would not be visible from select areas because of the distance to the guideway. Houses that are closer to the project alignment will be shielded from the guideway by an existing tall sound wall that screens the former residences from the roadway and also blocks views to the guideway.

The Pearl Harbor Naval Base station would be located outside the Little Makalapa sub-area NRHP boundary and would be screened by substantial vegetation from the rear of the closest houses. No audible or atmospheric effects to this property were identified.

The FTA received concurrence from SHPO for these findings of effect in accordance with 36 CFR part 800. This is documented in the April 2009 Historic Effects Report. Since there is no adverse effect to Little Makalapa sub-area historic property, it is not included in the PA. Because there is no use of the historic property, the Little Makalapa sub-area is also not included in the Section 4(f) Evaluation.

In your email, the NPS commented on the consistency between the Section 106 and Section 4(f) materials with regard to Boulevard Saimin. The FTA has determined, in accordance with 36 CFR part 800, that the Project would have no adverse effect on Boulevard Saimin, as documented in the April 2009 Historic Effects Report. The building does not retain historic integrity. The FTA received concurrence from SHPO on July 22, 2009.

The following text regarding Boulevard Saimin is included in the administrative draft Final Environmental Impact Statement Section 4(f) Evaluation, April 28, 2010:

"The Boulevard Saimin parcel would be affected by the widening of Dillingham Boulevard (Figure 5-13) to accommodate the fixed guideway in the median, as common to all Build Alternatives. A total of 700 square feet would be necessary. As a result of Section 106 consultation, FTA determined that the Project would have no adverse effect on this historic property. While there would be a Section 4(f) direct use, the impact would be *de minimis* and development of avoidance alternatives is not required."

"Pursuant to 23 CFR 774.5(b)(1), FTA has notified ACHP and the SHPO of its intent to make a *de minimis* impact determination on the two historic properties that were determined to have a no adverse effect under Section 106 (Boulevard Saimin and O'ahu Railway & Land Company Basalt Paving Blocks and Former Filling Station)."

Again in comparing the Section 4(f) and Section 106 materials, NPS commented on the consistency between the two sections regarding the Kamehameha Highway Bridge. The FTA has determined, in accordance with 36 CFR part 800, that the Project would have no adverse effect on Kamehameha Highway Bridge over Halawa Stream. The mauka span of the bridge is the only span eligible for the NRHP. The Project would introduce new components into the setting, however, pre-existing changes to the property have already diminished the bridge's integrity of setting (Historic Effects Report, April 14, 2009, page 135). The FTA received concurrence from SHPO in the finding of no adverse effect in accordance with 36 CFR part 800.

FTA determined that there is no use of this bridge; therefore, it is not included in the Section 4(f) Evaluation. This bridge is discussed in the Section 4(f) Evaluation Section 5.8.2 Differences in Environmental Impacts between Airport and Salt Lake Alternatives as part of the Least Overall Harm Discussion in the context of comparing the overall visual efforts of the two alternatives. The Section 4(f) Evaluation concludes that the overall visual effects for the Airport Alternative are expected to be of a lower magnitude than with the Salt Lake Alternative.

FTA modified the draft PA to provide NPS a 60 day review period for HABS/HAER/HALS documentation and to revise the text in Section III.D as:

> "Treatment Plans-Based on the results of the AIS fieldwork and in consultation with the SHPD, the City shall develop a specific treatment plan to avoid, minimize, or mitigate adverse effects to *historic properties including archaeological sites and burials* pursuant to the applicable state laws, including Hawai'i Revised Statutes, Chapter 6E and HAR, Title 13, Subtitle 13, Chapter 300, for each all construction phase phases. Treatment plans shall be submitted to the SHPD for approval. Upon approval by the SHPD, the City shall implement the treatment plan."

[1] This is generally assuming that archeological investigations for the alignment-only proposed by the City would disturb approximately 64 square feet every 108 feet for a 4 mile (21,100 feet) alignment compared to disturbing a width of 8 feet for 4 miles.