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Ms. Camille K. Kalama
Native Hawaiian Legal Corporation
1164 Bishop Street, Suite 1205
Honolulu, Hawaii 96813

Dear Ms. Kalama:

Subject: Honolulu High-Capacity Transit Corridor Project
Comments Received on the Draft Environmental Impact Statement

The U.S. Department of Transportation Federal Transit Administration (FTA) and the City and County of Honolulu Department of Transportation Services (DTS) issued a Draft Environmental Impact Statement (EIS) for the Honolulu High-Capacity Transit Corridor Project. This letter is in response to substantive comments received on the Draft EIS during the comment period, which concluded on February 6, 2009. The Final EIS identifies the Airport Alternative as the Project and is the focus of this document. The selection of the Airport Alternative as the Preferred Alternative was made by the City to comply with the National Environmental Policy Act (NEPA) regulations that state that the Final EIS shall identify the Preferred Alternative (23 CFR § 771.125 (a)(1)). This selection was based on consideration of the benefits of each alternative studied in the Draft EIS, public and agency comments on the Draft EIS, and City Council action under Resolution 08-261 identifying the Airport Alternative as the Project to be the focus of the Final EIS. The selection is described in Chapter 2 of the Final EIS. The Final EIS also includes additional information and analyses, as well as minor revisions to the Project that were made to address comments received from agencies and the public on the Draft EIS. The following paragraphs address comments regarding the above-referenced submittal:

Efforts to address the possibility of encountering iwi kupuna began during the Alternatives Analysis phase of the Project and are ongoing in coordination with the State Historic Preservation Division, Oahu Island Burial Council, and other interested parties. The Archaeological Technical Report, dated August 28, 2006 (see Pages 2 and 3), was prepared to support the Alternatives Analysis and specifically evaluated potential impact to burials and the potential impact of various proposed alternatives summarizing the available information

pertaining to the previous identification of burials (see, for example, the following pages in this technical report: 4-1, 4-2, 4-11, 4-13, 4-14, 4-15, 4-25, 4-27, 4-28, 4-41, 4-43, 4-44, 4-51, 4-53, 4-54, 4-56, 4-61, 4-62, and 4-64 to 4-75). The data on the presence of iwi kupuna was a specific category of analysis taken into consideration in route and alternative selection (page 5-113; see also pages 5-94, 5-96, 5-97, 5-99, 5-101, 5-102, 5-104, 5-105, 5-106, 5-108, 5-112, 5-114, 5-116, 5-123, and 5-133). This study took into account available data on soil types, previously recorded archaeological resources, historic land records, and previously recorded burial locations. All technical reports referenced in this letter are available from the City and County of Honolulu and the Department of Transportation Services offices and on the Project website.

Further consideration for the identification and protection of iwi kupuna was carried out in the Cultural Resources Technical Report, dated August 1, 2008, prepared for and referenced in the Draft and Final EISs. The Cultural Resources Technical Report was prepared in large part to specifically address traditional and customary rights of Native Hawaiians. The extensive effort to identify, contact, and consult with individuals, organizations, and agencies specifically sought to develop data on iwi kupuna and iwi kupuna concerns (see Sections 4.3.2, 5.2.1, and 5.2.4 of the Cultural Resources Technical Report). Several informants related information regarding iwi kupuna (see comments of Louis Agard, Jr., pages F-4, F-8; Claire Pruet, page F-10; and Shad Kane, pages F-24 and F-25). Land documents were examined to identify any accounts of iwi kupuna (pages 5-7, H-5, and H-6).

The Archaeological Resources Technical Report, dated August 15, 2008, prepared for and referenced in the Draft and Final EISs, lists burials as the first category of resources to be identified (see Page S-1, Table S-1, and Section 3.4).

The Archaeological Resources Technical Report identifies (Section 6.2) a number of steps to protect iwi kupuna, including a multi-step approach of: (1) preparation of an Archaeological Inventory Survey Plan, (2) use of Ground Penetrating Radar, (3) completion of an Archaeological Inventory Survey, (4) Archaeological Data Recovery (as appropriate), and (5) an Archaeological Monitoring Program (to begin with an Archaeological Monitoring Plan). Each of these additional archaeological studies is to be reviewed and accepted by the State Historic Preservation Division prior to groundbreaking for that construction phase. In addition, the preparation of a Programmatic Agreement has been completed that has included consultation with Native Hawaiian groups and organizations, including Hui Malama, the Office of Hawaiian Affairs, Hawaiian Civic Clubs, and the Oahu Island Burial Council (see Section 3.5.2).

As part of the National Historic Preservation Act Section 106 consultation, there has been extensive consultation, including the Oahu Island Burial Council, the Office of Hawaiian Affairs, Hui Malama in Na Kupuna O Hawaii Nei, the Royal Order of Kamehameha, the Ahahui Kaahumanu, The Daughters and Sons of the Hawaiian Warriors, the Association of Hawaiian Civic Clubs, the Ahahui Siwila Hawaii O Kapolei, the Alii Pauahi, the Ewa-Puuloa Hawaiian Civic Club, the Honolulu Hawaiian Civic Club, the King Kamehameha Hawaiian Civic Club, the Kalihi-Palama Hawaiian Civic Club, the Pearl Harbor Hawaiian Civic Club, the Merchant Street Hawaiian Civic Club, the Nanaikapono Hawaiian Civic Club, the Princess Kaiulani Hawaiian Civic Club, the Waianae Hawaiian Civic Club, the Wahiawa Hawaiian Civic Club, and the Waikiki Hawaiian Civic Club. A standing sub-committee of the Oahu Island Burial Council has been

established with consultation ongoing monthly. Specific recommendations by the Oahu Island Burial Council have been incorporated within project plans.

Additionally, the City is moving forward, in consultation with the State Historic Preservation Division and the Oahu Island Burial Council, with preparing a draft burial treatment plan.

The City has specifically evaluated potential impact to burials and specifically evaluated the potential impact of various proposed alternatives in consideration of the data provided in the Archaeological Technical Report dated August 28, 2006. Follow-through with and implementation of the approaches codified in the Archaeological Resources Technical Report and summarized above will provide the City with adequate information on the risks of encountering ancient Hawaiian burial remains prior to the beginning of the construction work. The preparation of the Cultural Resources Technical Report for the Draft EIS and the extensive and continuing consultation with Native Hawaiian individuals, groups, and agencies has been a good faith effort to assess cultural impacts. The extensive and ongoing advance consultation with Native Hawaiian individuals, groups, and agencies has been in keeping with the letter and spirit of NHPA Section 106 consultation.

A program of archaeological inventory survey investigations has begun with the State Historic Preservation Division review and approval of an archaeological inventory survey plan for the first construction phase. The archaeological inventory survey is ongoing and will be taken into account in final plans prior to construction.

As you have noted, Land Commission Award (LCA) claims associated with the project corridor indicate the possibility of burials within the project corridor—specifically in two cases. In the case of LCA 247 to Charles Kanaina, this is a huge alii claim involving many lands; and it in fact appears most likely that the burials referred to were in a former alii mausoleum on the grounds of the present Iolani Palace (well away from the project corridor). In the second case, LCA 30 to Kahoowaha, it appears there were two apana located mauka of Nimitz Highway between Kekaulike Street and Maunakea Street. Our studies to date indicate that one of the two LCA 30 apana did indeed have a narrow flaglot extension as far south as the Nimitz Highway right-of-way. This general area has indeed been associated with a number of burial finds. We certainly agree that this specific area of LCA 30 extending to Nimitz Highway merits consideration of avoidance. Certainly, intensive subsurface testing well in advance of construction in the vicinity will be in order to allow for relocation of column foundations away from any sensitive areas.

The FTA and DTS appreciate your interest in the Project. The Final EIS, a copy of which is included in the enclosed DVD, has been issued in conjunction with the distribution of this letter. Issuance of the Record of Decision under NEPA and acceptance of the Final EIS by the Governor of the State of Hawaii are the next anticipated actions and will conclude the environmental review process for this Project.

Very truly yours,

WAYNE Y. YOSHIOKA
Director

Enclosure