

Attachment E

Section 106 Consultation
Memorandum of Agreement, October 18, 2013



Preserving America's Heritage

October 18, 2013

Abraham Y. Wong
Division Administrator
Federal Highway Administration
300 Ala Moana Blvd., Room 3-306
Box 50206
Honolulu, HI 96850

Dear Mr. Wong:

Ref: *Memorandum of Agreement (MOA) regarding the Kuhio Highway Short-Term Improvements
Kuamoo Road to Temporary Bypass Road, Kaua'i, Hawaii*

Dear Mr. Wong:

Enclosed please find the fully executed Memorandum of Agreement (MOA) for the Kuhio Highway Short-term Improvements Project, Kauai'i, Hawaii. By carrying out the terms of this agreement, FHWA will fulfill its responsibilities under Section 106 of the National Historic Preservation Act and the regulations of Advisory Council on Historic Preservation (ACHP). We are returning four copies of the signed original to FHWA so that you may obtain additional signatures from the consulting parties that have decided to concur in the Agreement. Once all signatures are obtained, please provide copies of the fully executed MOA to all signatories and concurring parties, and return copies of the concurring signatures to the ACHP for our files.

We wish to thank you and your staff for working with the Hawaii State Historic Preservation Officer, the ACHP, and other consulting parties to resolve the adverse effects of this undertaking on historic properties. We appreciate the hard work of staff at both Hawaii Division FHWA and Hawaii Department of Transportation in reaching a successful conclusion to consultation.

If we may be of further assistance as the agreement is implemented, please contact Carol Legard, the ACHP's FHWA Liaison at (202) 606-8522, or via e-mail at clegard@achp.gov.

Sincerely,

Charlene Dwin Vaughn, AICP
Assistant Director, FPLAS Section
Office of Federal Agency Programs

Enclosure

ADVISORY COUNCIL ON HISTORIC PRESERVATION

1100 Pennsylvania Avenue NW, Suite 803 • Washington, DC 20004
Phone: 202-606-8503 • Fax: 202-606-8647 • achp@achp.gov • www.achp.gov

MEMORANDUM OF AGREEMENT
Among the
ADVISORY COUNCIL ON HISTORIC PRESERVATION,
UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
AND THE
STATE OF HAWAII
STATE HISTORIC PRESERVATION OFFICER

Regarding the Kūhiō Highway Short-Term Improvements:
Kuamo'o Road to Temporary Bypass Road Project
(Also referred to as South Leho Drive to Aleka Loop)
Districts of Līhu'e and Kawaihau, Island of Kaua'i, State of Hawai'i

WHEREAS, the Federal Highway Administration (FHWA) in coordination with the State of Hawai'i Department of Transportation (HDOT) proposes the Kūhiō Highway Short-Term Improvements, Kuamo'o Road to Temporary Bypass Road (also referred to as South Leho Drive to Aleka Loop) Project (Project); and

WHEREAS, pursuant to 36 Code of Federal Regulations (CFR) Part 800, regulations implementing Section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. 470 (f)), the Project is an undertaking and the FHWA has consulted with the Advisory Council on Historic Preservation (ACHP), Hawai'i State Historic Preservation Officer (SHPO), HDOT, State of Hawai'i Office of Hawaiian Affairs (OHA), Kaua'i/Ni'ihau Islands Burial Council (KNIBC), Kaua'i Historic Preservation Review Commission (KHPRC) and other Native Hawaiian organizations (NHOs); and

WHEREAS, in accordance with 36 CFR §800.6(a)(1), the FHWA has notified the ACHP of its adverse effect determination with specified documentation and ACHP has accepted the FHWA's invitation to participate in the consultation pursuant to 36 CFR §800.6(a)(1)(iii) (see Attachment 1); and

WHEREAS, the Project is located within portions of the ahupua'a of Wailua and South Olohena, which lie within the districts of Līhu'e and Kawaihau on the island of Kaua'i; and

WHEREAS, the Project Area encompasses a 1.75-mile section of Kūhiō Highway from South Leho Drive to Aleka Loop, approximately 700 feet north of Temporary Bypass Road, and approximately 600 feet of Kuamo'o Road extending mauka (inland) from its intersection with Kūhiō Highway; and

WHEREAS, the Project proposes to widen approximately 0.65 miles on the southbound (mauka) side of Kūhiō Highway from three to four lanes between Kuamo'o Road and Temporary Bypass Road, underground overhead utility lines from South Leho Drive to Aleka Loop, and extend the existing right-turn storage lane along Kuamo'o Road in the mauka (inland) direction from its intersection with the highway by approximately 200 feet (see Attachment 2); and

WHEREAS, the purpose and need for the Project is to alleviate existing traffic congestion occurring on Kūhiō Highway along the Project corridor within the Wailua area and improve safety along the Project corridor for pedestrians, and bicyclists; and

WHEREAS, based upon Archaeological Assessments prepared for the Project in June 2007 and July 2009 and consultation with the SHPO, OHA, KNIBC, DHHL, Hui Mālama I Na Kupuna O Hawai'i, Na Kahu Hininaakalā, KHPRC, Kaua'i Historical Society, and the County of Kaua'i Planning Department, the FHWA determined that the Project would have "no adverse effect"

and received concurrence from the SHPO by letters dated October 13, 2009 and October 22, 2009, respectively (see Attachments 3 and 4); and

WHEREAS, in January 2010, based upon additional information and comments received from NHOs, Section 106 consultation was re-opened for the Project and the FHWA and HDOT have since conducted extensive outreach with NHOs including numerous meetings with and presentations to the SHPO, OHA, Department of Hawaiian Home Lands (DHHL), KNIBC, and KHPRC, as well as descendants and cultural practitioners with lineal and cultural ties to Wailuanuiaho'ano and the ahupua'a of Wailua, South Oloheua and Hanamā'ulu (see Attachments 5 and 6); and

WHEREAS, in response to concerns raised during the consultation process, HDOT commissioned an Archaeological Inventory Survey (AIS) which was prepared in close consultation with NHOs, and completed and distributed to NHOs in March 2012; and

WHEREAS, the AIS identified the Project Area as the Area of Potential Effect (APE) (see Attachment 7); and

WHEREAS, the AIS identified three historic properties within the APE, including: 1) State Inventory of Historic Places (SIHP) #50-30-08-1711 identified as a cultural layer; 2) SIHP #50-30-08-3962 identified as a cultural layer; and 3) SIHP #50-30-08-2158 identified as an 'auwai (ditch) that would be adversely affected by the Project (see Attachment 8); and

WHEREAS, the FHWA has determined pursuant to 36 CFR §60.4 that SIHPs #50-30-08-1711, -3962, and -2158 meet the following significance criteria under the National Register of Historic Places (NRHP) for evaluation: (a) Association with events that have made a significant contribution to the broad patterns of our history; and (d) Yield, or may be likely to yield, information important in prehistory or history; and

WHEREAS, the HDOT commissioned a report titled, *Section 106 Consultation and Survey of Potentially Eligible Traditional Cultural Properties in Wailua Kai, Kaua'i*, dated February 2012, which identified an area encompassing Wailua ahupua'a and portions of South Oloheua and Hanamā'ulu ahupua'a; as being eligible for listing in the NRHP as a historic district, and that the APE lies within a small portion of this district (see Attachment 9); and

WHEREAS, the Wailua historic district is comprised of multiple traditional cultural properties which contribute to the significance of the district and are of traditional religious and cultural importance to Native Hawaiians individually and collectively as listed in Attachment 10; and

WHEREAS, the Wailua historic district retains sufficient integrity to convey the general setting of these contributing properties and to maintain those cultural and religious associations that unify these historic properties and thereby make the district a distinct, culturally significant entity, and do so despite encompassing modern, non-contributing structures and improvements within its boundaries; and

WHEREAS, the makai portion of Wailua described as Wailuanuiaho'ano, and also known as Wailua Kai, is a highly important spiritual place for many Hawaiians due to its association with a wealth of mo'olelo (history, story legend), oli (chant), and other Native Hawaiian folklore genres related to the area, and is eligible for inclusion in the NRHP as a historic district individually as well as contributing to the significance and associations of the broader Wailua traditional cultural property district; and

WHEREAS, the FHWA has determined, with ACHP and SHPO concurring, that the Project will have an "adverse effect" on the Wailua Traditional Cultural Properties (TCP) District including SIHPs #50-30-08-1711, #50-30-08-3962, and #50-30-08-2158 that contribute to the eligibility of the District; and

WHEREAS, the FHWA has notified the ACHP and SHPO of their determination by letters dated July 2, 2012 and July 25, 2012, respectively (see Attachments 11 and 12); and

WHEREAS, the Project will affect the historical properties of the Wailua TCP district that contribute to its eligibility for the NRHP; and

WHEREAS, the FHWA and HDOT acknowledge and agree that historic properties will be impacted as a result of the Project; and

NOW, THEREFORE, the FHWA, SHPO, ACHP, Department of Land and Natural Resources, Division of State Parks (State Parks), and HDOT, agree that the Project shall be implemented in accordance with the following stipulations in order to take into account the effects on historic properties:

STIPULATIONS

The FHWA will ensure that the following measures are carried out:

- A. **ON SITE POINT OF CONTACT (POC).** The FHWA in coordination with the HDOT shall designate an on-site point of contact (POC) within 90 days of the execution of this MOA. This on-site POC shall maintain hardcopies of all documents relative to this MOA and provide copies of them upon request by any party to this MOA. The on-site POC shall be responsible for receiving and distributing any daily archaeological or cultural monitoring reports to the other parties to this MOA on a weekly basis. All signatories and concurring parties to this MOA shall identify a POC for their respective organizations and transmit contact information to the FHWA and HDOT who shall maintain a current POC list.
- B. **MITIGATION MEASURES.** HDOT shall complete the following mitigation actions within five years of the date of this MOA:
 1. **Reduce Signage Along Kūhiō Highway** - To improve the cultural sensitivity of the Project area, HDOT shall conduct a visual inspection of existing roadway signage and will reduce or modify roadway signage in order to minimize the visual impact of roadway signs on the Wailua TCP District. Such changes will be made only to the extent that they will not interfere with or reduce traffic safety for motorists.
 2. **Minimize Street Lights by Mālaeha'akoa Heiau and Hikinaakalā Heiau** - HDOT shall conduct a site inspection of the existing roadway within the Project area in proximity to the heiau of Mālaeha'akoa and Hikinaakalā to minimize street lights or install shielded or full cutoff street light fixtures.
 3. **Prepare Ethnographic Study, Review Wailua Complex of Heiau and Revise National Historic Landmark Description, and Prepare Wailua Documentary**

The following three items shall be prepared by qualified archaeologist(s), ethnographer(s), and/or historian(s), as defined in Hawai'i Revised Statutes (HRS) §13-281-3, -6, and -7, respectively, and/or recognized Hawaiian cultural expert(s). The items are not interdependent, and may be completed separately or in conjunction with the other. However, close coordination shall be conducted between preparers to ensure the accuracy and consistency of information and to minimize duplication of efforts.

 - a. **Prepare Ethnographic Study of Wailua TCP** – In consultation with the SHPO, State Parks, and OHA, as well as other NHOs as may be necessary, an ethnographic survey of the Wailua TCP shall be conducted to gather information on Native Hawaiian culture, practices, history, beliefs and religion. The study will

include the Wailua Complex of Heiau and will generate information to revise the National Historic Landmark (NHL) description.

- b. **Coordinate with NHL Program.** Prior to initiating the survey, HDOT or the responsible qualified professional completing the survey will contact the NHL Program, Pacific West Regional Office to determine documentation requirements and the appropriate NPS protocol for revising the NHL nomination. HDOT or the qualified professional will continue to coordinate with the NHL Program in carrying out the provisions of Stipulation B.3.c. below.
 - c. **Review the Wailua Complex of Heiau and Revise the National Historic Landmark (NHL) Description** – In consultation with SHPO, State Parks and OHA, as well as other NHOs as may be necessary, the qualified preparer(s) shall review the Wailua Complex of Heiau NHL description to describe and explain the connections and alignment between the current Wailua Complex of Heiau (including Poliahu Heiau, Mālaeha'akoa Heiau, Hikinaakalā Heiau and Kalaeokamanu Heiau also known as Holoholokū), to other heiau within the TCP. Based on this information, a revised NHL nomination form shall be submitted to NPS for review and approval.
 - d. **Complete Wailua Documentary** – Funding not to exceed \$250,000.00 shall be provided for a video documentary of Wailua to document the historical and cultural significance of the Wailua TCP. The documentary shall be prepared by a qualified production company with knowledge in Hawaiian cultural practices. The scope of the documentary shall be developed in consultation with the SHPO, State Parks, and OHA as well as other NHOs as may be necessary. The documentary shall include interviews of recognized historian(s) and kūpuna with knowledge of the area. The video documentary shall be distributed as part of education outreach.
 - e. **Conduct Coordination Meeting** – HDOT shall schedule and conduct a meeting to coordinate the scopes of work between the respective preparers of Items 4a, 4b, and 4c, and consider opportunities for NHOs to provide input during their development.
4. **Provide NHO-FHWA-HDOT Training** - The FHWA and HDOT acknowledge the need to build upon existing and develop new relationships with NHOs and communities on Kaua'i. The FHWA and HDOT shall commit to sponsoring an initial relationship building workshop to provide a forum where discussion and knowledge exchange can occur between the FHWA, HDOT, NHOs, and community representatives in a non-project specific context. Other agencies may be invited to participate in this forum as deemed appropriate by a consensus decision between the FHWA and HDOT, with the SHPO and OHA, advocating on behalf of NHO interests. This workshop shall be held within three years of the execution of this MOA.

The subject of the workshop may cover topics such as: 1) identification of issues, challenges or problems that NHOs, the FHWA, and HDOT have experienced in consultation with each other; 2) technical training about NHPA Section 106, HRS Chapters 343 and 6E, Department of Transportation Act Section 4(f), National Environmental Policy Act (NEPA), NHO protocols, relevant Hawaiian history or cultural practices, or other relevant laws and practices (mutually sharing information); 3) problem-solving session to share knowledge about best practices that would assist NHOs, HDOT and the FHWA to have productive and effective consultation; and 4) identification of NHOs and community representatives interested in participating in the next stage of relationship building that may involve a training course sponsored by the

FHWA/HDOT that integrates the NEPA/NHPA/U.S. Department of Transportation Act, Section 4(f) decision making processes for transportation projects in Hawai'i.

The FHWA and HDOT may sponsor additional phases of the relationship building process and will decide within one year after the conclusion of the first workshop as appropriate and/or necessary.

5. **Wailua Beach Coastal Assessment** –FHWA and HDOT shall conduct a two-year shoreline review and monitoring program to analyze coastal processes and shoreline changes along Wailua Beach from Wailua River to the vicinity of the former Sea Shell Restaurant. Work shall consist of the following:
 - Thorough research and review of existing information shall be conducted to help define historical shoreline trends, and natural and man-made events which affected the shoreline;
 - Oceanographic parameters pertinent to the project area shall be investigated, and their effects evaluated. Detailed investigation of the shoreline shall be conducted over a two-year period, including periodic site visits to obtain shoreline surveys and to note changes in the beach characteristics and condition. During this two-year period, records shall be kept of weather and oceanographic conditions, and this information coupled with the site visit data shall be correlated to help define cause and effect relationships between oceanographic conditions and beach change;
 - An evaluation and assessment report shall be prepared following the two-year study, to help guide future planning and design for the project area; and
 - The evaluation and assessment report shall be provided to all parties to the MOA within six months of its completion, and posted to HDOT's website for availability to all consulting parties.
6. **Data Recovery** - Three historic properties identified within the project area include: 1) SIHP # 50-30-08-1711 identified as a cultural layer; 2) SIHP #50-30-08-3962 identified as a cultural layer; and 3) SIHP # 50-30-08-2158 identified as a ditch/auwai. Due to the determination of adverse effect for the proposed undertaking, in order to mitigate the potential damage to these historic properties within the project area, archaeological data recovery shall be conducted according to a data recovery plan to be reviewed and approved by the SHPO.
7. **Implement Archaeological and Cultural Monitoring During Construction**
 - a. The Archaeological Monitoring Plan (AMP) shall be approved by the SHPO and implemented pursuant to Hawai'i Administrative Rules (HAR) §13-279, Rules Governing Standards for Archaeological Monitoring Studies and Reports, by letters dated March 16, 2009, April 6, 2009, and March 10, 2010 (see Attachment 13).
 - b. HDOT will insure that whenever ground disturbing activities associated with construction occur a qualified cultural monitor is present. HDOT shall prepare a Cultural Monitoring Scope of Work in consultation with OHA and the SHPO to describe the minimum qualifications and requirements for cultural monitor(s). The Scope of Work will be subject to approval by the FHWA. The role of the cultural monitor(s) shall include but not be limited to:
 - i. Serve as a liaison with the community to assist in the interpretation of cultural resources during construction work involving ground disturbance;
 - ii. Provide cultural education for construction workers and authorized job-site visitors; and

- iii. Assist in the identification and interpretation of cultural properties.

HDOT shall provide signatories and concurring parties to the MOA an opportunity to review and comment on the draft Cultural Monitoring scope of work. The HDOT shall select a cultural monitor(s) from a list of qualified applicants based on the objectives identified above. Participating NHOs shall be afforded the opportunity to identify the potential cultural monitor candidates.

8. **Prepare Consultation Protocol (CP)** for human skeletal remains and associated materials to determine how consultation will be conducted with descendants to gather their input in compliance with HRS §6E-43.6 and HAR §13-300.
 - a. The CP shall be finalized prior to construction;
 - b. The CP shall include consultation with the SHPO, OHA, KNIBC (up to two requests), lineal and cultural descendants, and landowners in the development of the CP;
 - c. Landowners may request that SHPO extend the consultation process to determine the appropriate treatment of inadvertent discoveries;
 - d. Once the CP is finalized, the HDOT shall request up to two times to be placed on the KNIBC agenda for an informational presentation; and
 - e. Pursuant to HAR §13-300, SHPO shall determine the appropriate treatment of the inadvertent discoveries within three working days of completion of the consultation.
- C. **DISPUTE RESOLUTION.** Should any party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, the FHWA shall consult with such party to resolve the objection. If the FHWA determines that such objection cannot be resolved, the FHWA will:
 1. Forward all documentation relevant to the dispute, including the FHWA's proposed resolution, to the ACHP. The ACHP shall provide the FHWA with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the FHWA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories, invited signatories, and concurring parties, and provide them with a copy of this written response. The FHWA will then proceed according to its final decision.
 2. Make a final decision on the dispute and proceed accordingly, if the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period. Prior to reaching such a final decision, the FHWA shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories, invited signatories, and concurring parties to the MOA, and provide them and the ACHP with a copy of such written response.
 3. Carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.
- D. **MONITORING AND REPORTING.** At the end of each calendar year following the execution of this MOA until it expires or is terminated, the FHWA and HDOT shall coordinate to provide all parties to this MOA a summary report detailing work undertaken pursuant to its terms. Such a report shall also include any scheduling changes proposed, any problems encountered, and any disputes and objections received in the HDOT's and the FHWA's efforts to carry out the terms of this MOA. A Final Report shall be prepared at

the expiration of the MOA. Annual reports will be transmitted to the parties to the MOA and posted on the HDOT website each year the MOA is in effect.

- E. **DURATION.** The term of this MOA shall apply for a period of five (5) years from the execution of the MOA, unless amended pursuant to Stipulation F of this MOA below.
- F. **AMENDMENTS.** Any signatory or to this MOA may request that it be amended, whereupon the parties shall consult to consider such amendment. HDOT will seek input from the concurring parties on any proposed amendments. Any amendment to this MOA must be signed by all signatories.
- G. **TERMINATION.** Any signatory to this MOA may terminate it by providing a 30-calendar-day written notice to the other parties, provided that the signatories and concurring parties will consult during the 30-day period prior to termination to seek agreement on amendments or other actions that would avoid termination. In the event of termination, FHWA shall comply with 36 CFR Part 800 for all remaining actions under this MOA.
- H. **COUNTERPART SIGNATURES.** This MOA may be executed in counterparts. Each signature page shall be incorporated into the MOA and considered a part of this MOA.

APPROVAL

Execution of this MOA by the parties below and implementation of its terms is evidence that the FHWA has afforded the ACHP an opportunity to comment on the Project and its effects on historic properties, and that the FHWA has taken into account the effects of the Project on historic properties. The following organizations are identified as parties to this MOA:

Signatories:

Advisory Council on Historic Preservation
U.S. Department of Transportation, Federal Highway Administration
State Historic Preservation Officer

Invited Signatories:

State of Hawai'i, Department of Transportation

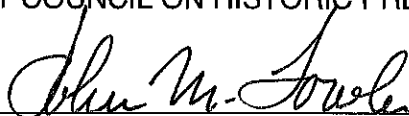
Concurring Parties:

State of Hawai'i, Department of Land and Natural Resources, Division of State Parks
Dr. Kamana'opono M. Crabbe, Office of Hawaiian Affairs
Mr. Keith R. Yap, Kaua'i Ni'ihau Island Burial Council
Mr. Sy Shim, Mr. Kaimi Hermosura, Mr. Ed Kaiwi, Mr. Ed Taniguchi and Mr. Walter Apana, Konohiki of Kaua'i
Ms. Liberta Albao, Queen Deborah Kapule Hawaiian Civic Club
Ms. Leilani Kaleiohi
Ms. Cheryl Lovell-Obatake, Cultural Monitor and Aha Kiole (Puna District)
Ms. Puanani Rogers, Ho'okipa Network
Ms. Mahelani Sylva, Ni'ihau/Kaua'i Aha Moku, Aha Pua'a Community Coordinator

SIGNATORY:

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By:



John M. Fowler, Executive Director

Date:

10/22/13

SIGNATORY:

U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION

By: 
Abraham Wong, Division Administrator

Date: 9/10/13


SIGNATORY:

STATE HISTORIC PRESERVATION OFFICER (State of Hawai'i)

By:  Date: 8/17/13
William J. Alla, Jr., State of Hawai'i Historic Preservation Officer

INVITED SIGNATORY:

STATE OF HAWAII DEPARTMENT OF TRANSPORTATION

By: 
Glenn M. Okimoto, Ph.D., Director of Transportation

Date: AUG 30 2013

CONCURRING PARTY:

DEPARTMENT OF LAND AND NATURAL RESOURCES, DIVISION OF STATE PARKS
(STATE OF HAWAII)

By: _____
Daniel S. Quinn, State Parks Administrator

Date: _____

CONCURRING PARTY:

OFFICE OF HAWAIIAN AFFAIRS

By: _____

Dr. Kamana'o pono M. Crabbe
Ka Pouhana Chief Executive Officer

Date: _____

CONCURRING PARTY:

KAUA'I NI'HAU ISLAND BURIAL COUNCIL

By: _____
Keith R. Yap, Vice Chair

Date: _____

CONCURRING PARTY:

KONOHIKI OF KAUA'I

By: _____
Sy Shim

Date: _____

By: _____
Kaimi Hermosura

Date: _____

By: _____
Ed Kaiwi

Date: _____

By: _____
Ed Taniguchi

Date: _____

By: _____
Walter Apana

Date: _____

CONCURRING PARTY:

QUEEN DEBORAH KAPULE HAWAIIAN CIVIC CLUB

By: _____
Liberta Albao

Date: _____

CONCURRING PARTY:

By: _____
Leilani Kaleiohi

Date: _____

CONCURRING PARTY:

CULTURAL MONITOR AND AHA KIOLE (PUNA DISTRICT)

By: _____
Cheryl Lovell-Obatake

Date: _____

CONCURRING PARTY:

HO'OKIPA NETWORK

By: _____
Puanani Rogers

Date: _____

CONCURRING PARTY:

NI'HAU/KAUA'I AHA MOKU, AHA PUA'A COMMUNITY COORDINATOR

By: _____
Mahelani Sylva

Date: _____

LIST OF ATTACHMENTS

1. Letter dated August 12, 2012 from the ACHP to the FHWA regarding participation in Section 106 consultation and MOA
2. Location Map and Design Plans
3. Letter dated October 13, 2009 from the FHWA to the DLNR regarding "no adverse effect" determination
4. Letter dated October 22, 2009 from the DLNR to the FHWA concurring with "no adverse determination"
5. Summary of Section 106 Consultation
6. Section 106 Consultation - List of NHO Participants as of February 2013
7. Area of Potential Effect (APE) Map
8. Wailuanuiaho'ano Map - Affected Sites SIHP #50-30-08-1711, #-3962 and #50-30-08-2158
9. Wailua Traditional Cultural Property (TCP) Map
10. Table of Sites and TCP Elements in Wailuanuiaho'ano Area Map and Wailua TCP District
11. Letter dated July 2, 2012 from the FHWA to the SHPO regarding "adverse effect" determination
12. Letter dated July 25, 2012 from the FHWA to the ACHP regarding "adverse effect" determination
13. Letters dated March 16, 2009, April 6, 2009, and March 10, 2010 from SHPO accepting the Archaeological Monitoring Plan

Milford Wayne Donaldson, FAIA
Chairman

Clement A. Price Ph.D.
Vice Chairman

John M. Fowler
Executive Director



Preserving America's Heritage

August 14, 2012

Victor Mendez
Administrator
Federal Highway Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

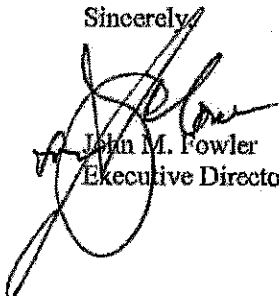
Dear Mr. Mendez:

In response to an invitation from the Hawaii Division, Federal Highway Administration (FHWA), the Advisory Council on Historic Preservation (ACHP) will participate in consultation pursuant to Section 106 of the National Historic Preservation Act (16 USC 470[f]) regarding proposed short term improvements to Kuhio Highway, Kuamo'o Road to Temporary Bypass Road, Puna and Ko'olau Districts, on the Island of Kauai. Our decision to participate in this consultation is based on the *Criteria for Council Involvement in Reviewing Individual Section 106 Cases*, contained in Appendix A of our regulations. The criteria are met because the proposed work will occur within the boundaries of Wailuanuiaho'ano, a traditional cultural property that is eligible for inclusion in the National Register of Historic Places because of its spiritual and historic significance to native Hawaiians.

Section 800.6(a)(1)(iii) of our regulations requires that we notify you, as the head of the agency, of our decision to participate in consultation. By copy of this letter, we are also notifying Abraham Wong, Division Administrator, of this decision.

The ACHP has worked closely with the Hawaii Division in earlier steps of Section 106 review for this undertaking. Our continued participation in this consultation will be handled by Carol Legard, the ACHP's FHWA Liaison, who can be reached at 202-606-8522 or via email at elegard@achp.gov. We look forward to working with FHWA and the other consulting parties to develop a Memorandum of Agreement for the resolution of adverse effects to this important historic property.

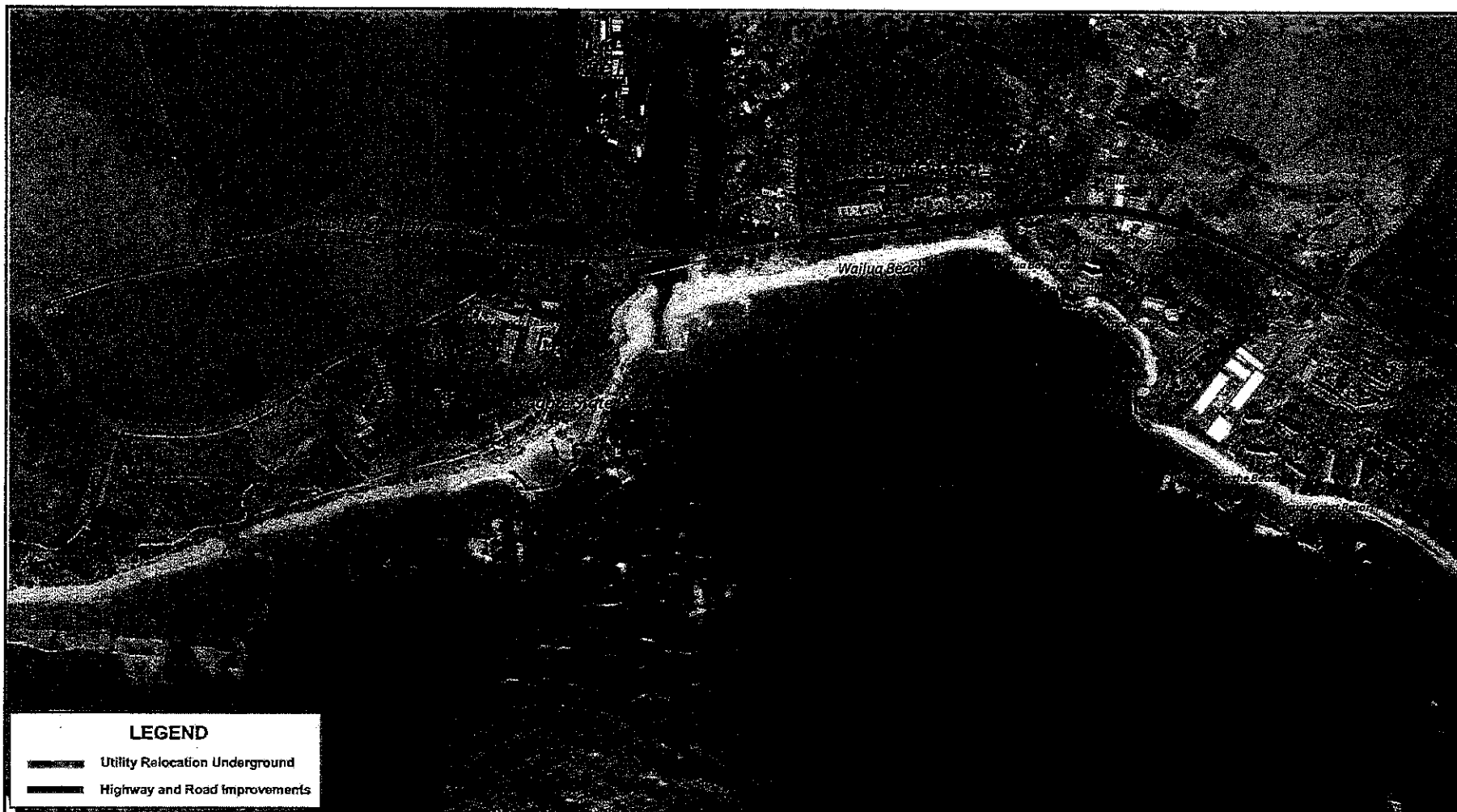
Sincerely,


John M. Fowler
Executive Director

ADVISORY COUNCIL ON HISTORIC PRESERVATION

1100 Pennsylvania Avenue NW, Suite 803 • Washington, DC 20004
Phone: 202-606-8503 • Fax: 202-606-8647 • achp@achp.gov • www.achp.gov

ATTACHMENT 1



LEGEND

- Utility Relocation Underground
- Highway and Road Improvements



NOT TO SCALE

**EXHIBIT 1
PROJECT VICINITY MAP**

*Kuhio Highway Short-Term Improvements;
Kuamoo Road to Temporary Bypass Road*



**WILSON OKAMOTO
CORPORATION**
ENGINEERS, ARCHITECTS, PLANNERS, ENVIRONMENTALISTS



U.S. Department
of Transportation
**Federal Highway
Administration**

Hawaii Federal-Aid Division

October 13, 2009

300 Ala Moana Blvd., Rm 3-306
Box 50206
Honolulu, HI 96850
Phone: (808) 541-2700
Fax: (808) 541-2704
<http://www.fhwa.dot.gov/hidiv>

In Reply Refer To:
HDA-HI

CERTIFIED MAIL RETURN RECEIPT
7002 0860 0007 4381 1308

Ms. Laura Thielen, Chairperson
Department of Land and Natural Resources
State of Hawaii
P.O. Box 621
Honolulu, HI 96809

Dear Ms. Thielen:

Subject: Kūhiō Highway Short-Term Improvements; Kuamo'o Road to Kapa'a Temporary
Bypass Road Project (FAP No. NH-056-1(50))
Wailua, Island of Kaua'i
Section 106 Consultation

The State of Hawaii, Department of Transportation (DOT), Highways Division is proposing to implement the Kūhiō Highway Short-Term Improvements Project that is located in Wailuā of the Island of Kaua'i. The Federal Highway Administration (FHWA) is proposing to authorize construction of this undertaking.

This letter with attachments is being submitted to document consultation efforts conducted for this undertaking pursuant to Section 106 of the National Historic Preservation Act and the Advisory Council on Historic Preservation's regulations for Protection of Historic Properties (36 CFR, Part 800). We have applied the criteria of effect based upon 36 CFR §800 for the proposed undertaking, and have determined that it will have "no adverse effect" on historic properties.

Based upon consultations efforts and studies conducted, there are no known historic properties within the area of potential effect and no known historic properties that would be negatively affected by the project improvements. However, there is a potential for subsurface sites being encountered during construction activities, and the general project area is culturally sensitive. Therefore, in making our determination, we are proposing to carry out the following actions to avoid adverse effects on potential subsurface sites.



Proposed Measures

1. Additional subsurface testing would be conducted within the project corridor. Any burials found during this process will be treated as a known burial.
 - a. Testing would occur during the construction phase of the project and include the following areas:
 - 1) A State-owned strip parcel (TMK 4-1-03: 039) situated between the Coco Palms Resort and Kūhiō Highway.
 - 2) A section along the mauka side of the highway from the intersection of the Temporary Kapa'a Bypass Road northbound to a proposed electrical riser pole near Aleka Loop.
 - 3) Along undeveloped areas of the mauka side of the highway where underground utilities are planned within a privately-owned parcel identified as TMK 4-3-10: 001 located north of Haleililo Road.
 - b. A plan covering the additional testing scope of work will be prepared and submitted to the State Historic Preservation Division (SHPD) for review and approval.
 - c. A new inventory survey report would be prepared documenting the results of this additional testing.
 - This report will be submitted to SHPD for review and approval.
2. Construction of the project will proceed under an archaeological monitoring program.
 - a. The SHPD approved Archaeological Monitoring Plan (March 2009) for the highway widening improvements (DOC: 0903WT117) will be amended to incorporate on-site monitoring for the relocation of existing overhead utilities underground.
 - b. The amended monitoring plan will be submitted to SHPD for review and approval.
3. Develop a plan addressing burial treatment protocols in the event burials are encountered.
 - a. Procedures for "previously identified" and "inadvertent discovery" burials should be addressed.
 - The intent is to identify procedures to ensure burials are properly protected and cared for while formal decisions regarding treatment are developed.
 - b. The plan would be developed in consultation with the Office of Hawaiian Affairs (OHA), SHPD, the Kaua'i / Ni'ihau Islands Burial Council, and pertinent Native Hawaiian organizations.
 - c. The protocols plan would be submitted to OHA, SHPD, and the island burial council for concurrent review.
 - d. The plan's preparation, review, and revision will be completed within a total timeframe of four (4) months.
 - Written notification to OHA and SHPD would be provided to document initiation of this process and completion date.

4. OHA will develop a framework for their selection and management of a cultural monitor assisting on this project to serve as a liaison between the contractor and concerned community to provide increased level of communication.
 - a. The cultural monitor will be hired by OHA and serve under OHA's management and responsibility.
 - OHA will provide a written job description and framework for this monitor's responsibilities and duties to the State DOT and FHWA.
 - b. The monitor will either be on-site or on-call for monitoring subsurface construction work (ex. trench digging).
 - The cultural monitor should coordinate one's activities with the contractor and archaeologist who are responsible for on-site decisions.
 - The monitor should follow all construction safety procedures and be equipped with personal protective equipment.
 - c. The State DOT will reimburse OHA for compensation associated with this monitor.
 - d. A report documenting the monitor's activities will be submitted from OHA to the State DOT and FHWA.
 - 1) Daily monitoring data logs will be prepared by the monitor.
 - 2) The report should include a qualitative narrative of monitoring activities, data logs, and recommendations that could be applied to future projects.

We request your concurrence with the proposed no adverse effect determination for this project. Enclosed is documentation supporting this determination for your review. This documentation was prepared based upon your department's guidelines for Section 106 submissions.

We would greatly appreciate your response within 30 days of receipt of this letter. If you have any questions, please contact me at 541-2700, ext. 2305 if have any questions regarding this consultation request.

Sincerely yours,



Pat V. Phung, P.E.
Transportation Engineer

Enclosure: Documentation

cc: Darell Young, HDOT, HWY-P
Ronald Sato, Wilson Okamoto Corporation

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE HISTORIC PRESERVATION DIVISION
601 KAMOKILA BOULEVARD, ROOM 555
KAPOLEI, HAWAII 96707

LAURA R. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAOLOAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

October 22, 2009

Mr. Pat Phung, P.E.
Transportation Engineer
US DOT- FHWA
300 Ala Moana Blvd, Room 3-306
Honolulu, Hawai'i 96850

LOG NO: 2009.4462
DOC NO: 0910NM34
Archaeology

Dear Mr. Phung:

**SUBJECT: National Historic Preservation Act – Section 106 Review—
Proposed Kūhiō Highway Short Term Improvements – (FAP No NH-056-1(50))
Wailua Ahupua'a, Puna District, Kaua'i
TMK: (4) 4-1-003: 017, 039, 044 and 4-3-002: 006 por.**

Thank you for providing the opportunity to review your documentation on your determination that the Kūhiō Highway Short-Term Improvement Projects have a "no adverse effect" determination. This project is the creation of short-term improvements to the Kūhiō Highway between Kuamo'o Road on the south and the Temporary Kapa'a Bypass Road on the north. We concur that there are no known historic properties within the APE but there is certainly the potential for subsurface sites or human remains. The project area is located in an archaeologically sensitive area fronting the Coco Palms Resort where previous archaeological inventory surveys recorded a widely dispersed buried cultural layer and numerous human burials on the grounds of the resort.

To address the possibilities of finding historic properties or human remains, the FHWA is proposing additional archaeological inventory testing, archaeological monitoring (AMP approved March 2009 DOC:0903WT117), developing a burial treatment plan and hiring a cultural monitor under OHA's directions. Based on the documentation and the stated FHWA proposal, we concur with your determination that this project will have "no adverse effect" on historic properties.

If you have any questions please call me at 692-8015.

Aloha,

Nancy A. McMahon (Deputy SHPO)
State Historic Preservation Officer

Cc: Doug Haigh, County of Kauai
Ron Sato, Wilson Okamoto Corp.
Darrell Young, DOT

**Kūhiō Highway Short-Term Improvements
Kuamo'o Road to Temporary Bypass Road Project
(Also referred to as South Leho Drive to Aleka Loop)
District of Kawaihau, Island of Kaua'i, State of Hawai'i**

SUMMARY OF SECTION 106 CONSULTATION

The Federal Highway Administration (FHWA) and State of Hawaii Department of Transportation (HDOT) conducted extensive consultation under Section 106 of the National Historic Preservation Act (NHPA), including numerous meetings with Native Hawaiian organizations (NHO), including: State Historic Preservation Officer, (SHPO), Office of Hawaiian Affairs (OHA), Department of Hawaiian Home Lands (DHHL), as well as descendants and cultural practitioners with lineal and cultural ties to Wailuanuiho'ano and the ahupua'a of Wailuā and South Oloheua. Also included as part of the outreach efforts were several presentations to the Kauai Historic Preservation Review Commission (KHPRC), Kauai/Niihau Island Burial Council (KNIBC), and Board of Land and Natural Resources (BLNR). Furthermore, the Advisory Council on Historic Preservation (ACHP), which oversees NHPA requirements, has been involved throughout the consultation process. The following is a chronological summary of outreach that has been completed by FHWA and HDOT to date for the project:

2007

1. Jan. 30 – Meeting with SHPO

2009

1. Jan. 30 – Meeting with SHPO
2. Mar. 5 – Presentation to KHPRC
3. Mar. 5 – Presentation to KNIBC
4. Mar. 5 - Public Information Meeting and Section 106 consultation
5. Mar. 24 – Meeting with DHHL
6. Aug. 3 – Meeting with OHA
7. Aug. 5 – Distribution of Section 106 consultation package to NHOs
8. Aug. 9 - Meeting with SHPO
9. Aug. 10 - Meeting with OHA
10. Sept. 17 – Meeting with OHA
11. Sept. 29 - Meeting with SHPO

2010

1. Jan. 8 – Presentation to BLNR
2. Feb. 12 - Meeting with NHOs #1
3. June 24 - Meeting with NHOs #2
4. July 29 - Meeting with NHOs #3
5. Aug. 5 – Presentation to KHPRC
6. Aug. 12 – Presentation to KNIBC
7. Aug. 23 – Conference call with NHOs
8. Sept. 9 and 10 - Meeting with NHOs #4

2011

1. Apr. 6 - Meeting with NHOs #5
2. May 18 - Presentation to KNIBC
3. May 24 – Conference call with NHOs
4. July 14 – Meeting with NHOs
5. July 27 – Meeting with NHOs #6
6. Dec. 7 and 8 - Meeting with NHOs #7

2012

1. Aug. 21 and 22 - Meeting with NHOs #8
2. Oct. 2 – Meeting with SHPO
3. Oct. 5 – Meeting with OHA
4. Nov. 7 – Meeting with ACHP, SHPO, and OHA (Also attended: DLNR State Parks)
5. Nov. 20 – Meeting with SHPO and DLNR State Parks
6. Dec. 18 – Meeting with SHPO, Nā Kahu Hikina'aka'lā (Also attended: DLNR State Parks)

2013

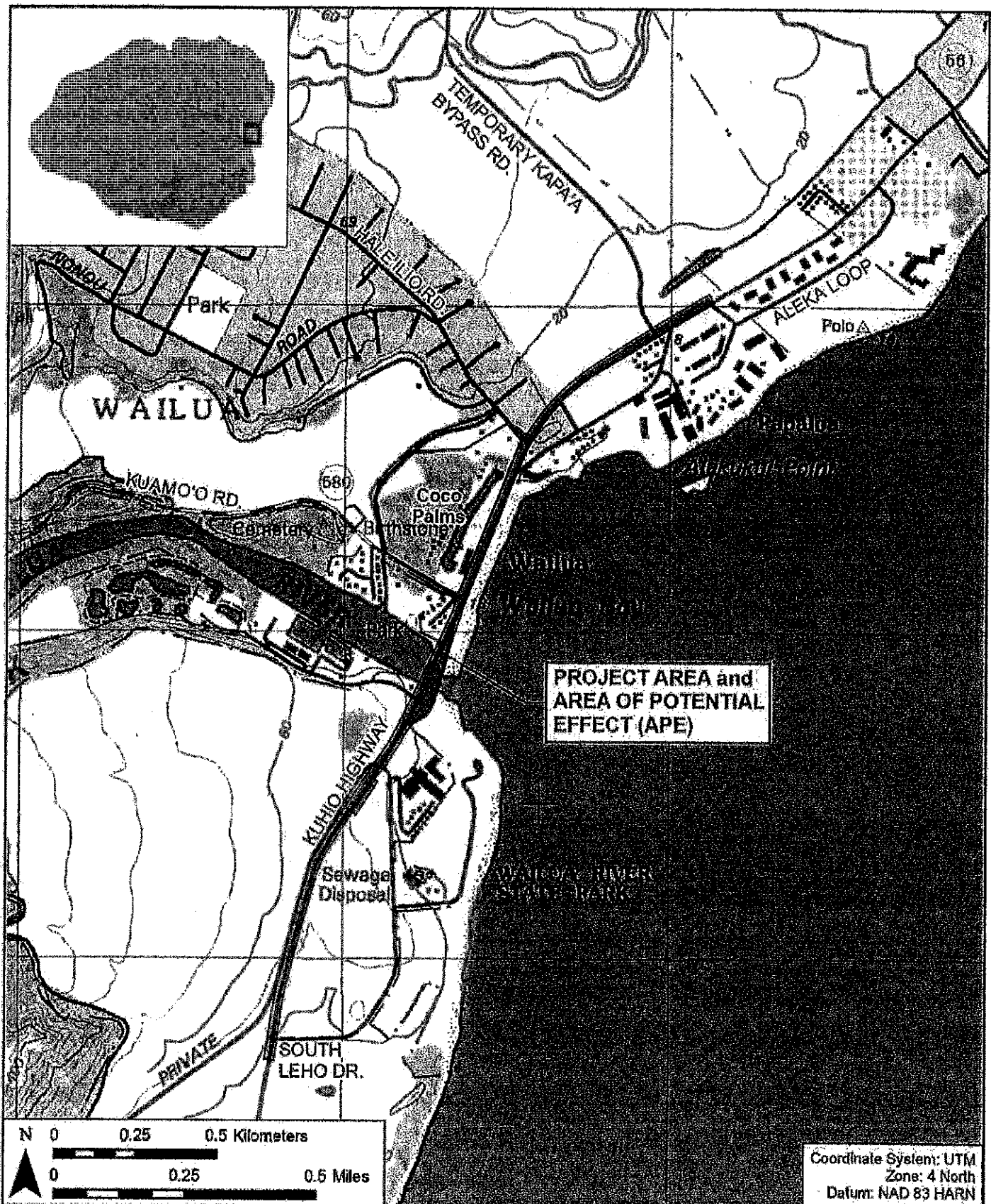
1. Feb. 7 - Meeting with NHOs #9

Kuhio Highway Short-Term Improvements – Kuamoo Road to Temporary Bypass Road
Section 106 Consultation
List of NHO Participants as of February 2013

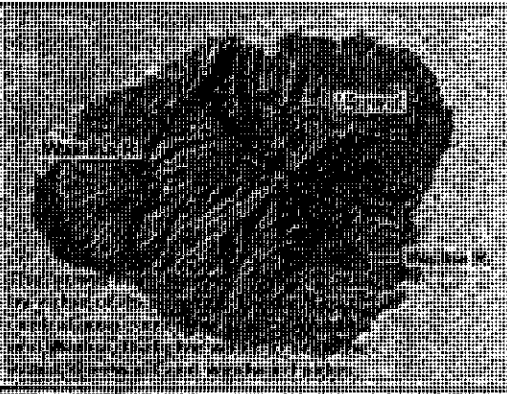
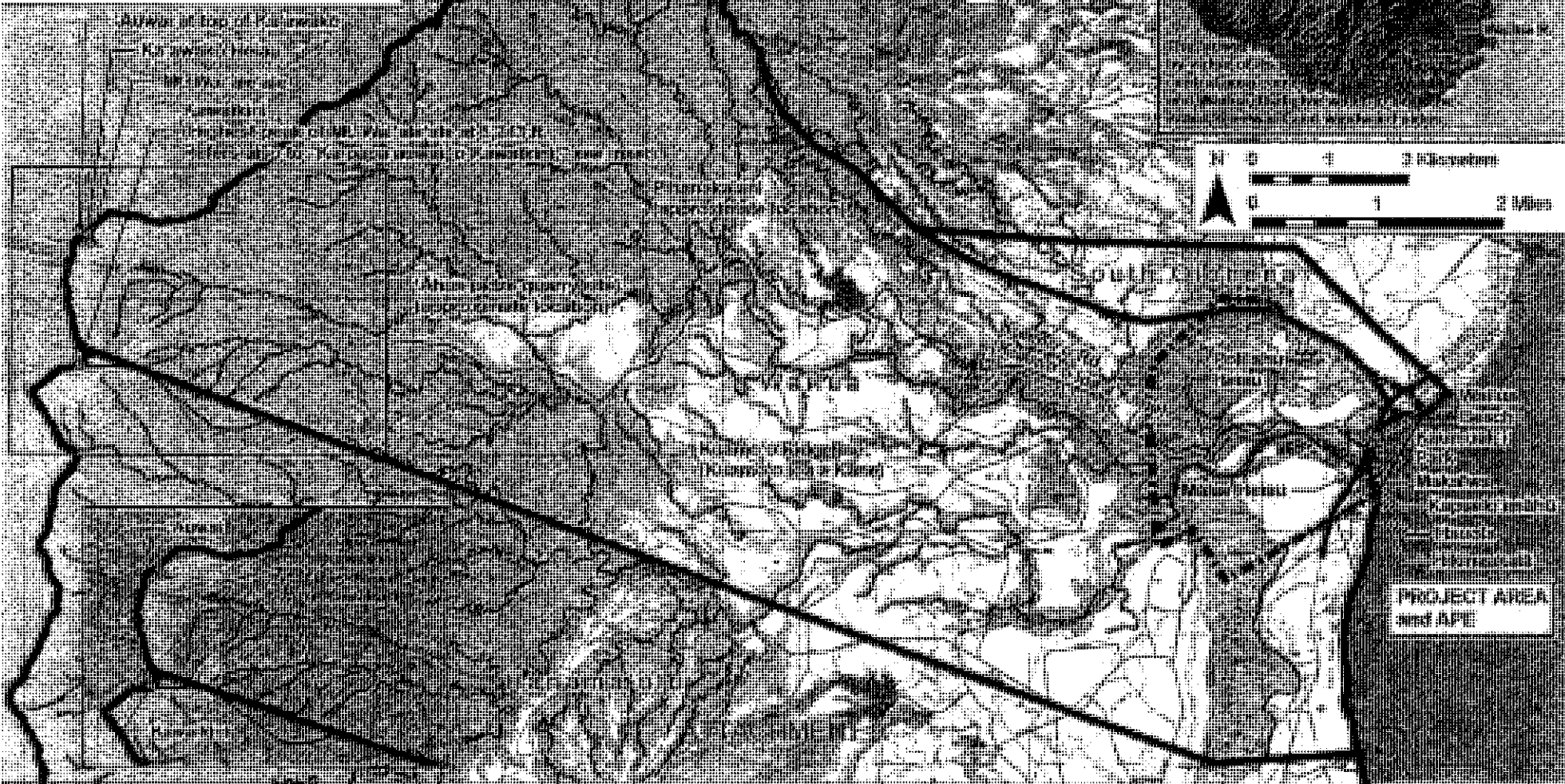
First and Last Name	Organizational Affiliation
Liberta Albao	Queen Deborah Kapule HCC
Elizabeth Ako	
Valentine Ako	
James Alalem	Caretaker Wailua
Walter Apana	Konohiki of Kauai
Kauiulani Edens Huff	Hawaiian National Private Citizen
Devin Forrest	Konohiki of Kauai
Jimmy Fujita	Kauai Niihau Island Burial Council
Kaiohua Fyfe	
Kalmi Hermosura	Konohiki of Kauai
Wilma Holi	Hui Malama
Canen Hookano	
Valetta Jeremiah	Guest of Beverly Muraoka
Leilani Josselin	Lineal descendant
Noelani Josselin	Lineal descendant
Elizabeth Kahele	Hawaiian Kingdom
Gilbert Kahele	Hawaiian Kingdom
Lehua Kahele	
GW Naliko Kahualii	Hawaii Kingdom Dept. of Interior
Ed Kaiwi	Konohiki of Kauai
Nathan Kalama	
Leilani Kalelohi	
Nau Kamalii	Papa Ola Lokahi
Sabra Kauka	Na Kahu Hikinaakala
Kehaulani Kekua	Kaieie Foundation, Halau Palaihiwa O Kaipuwai, Na Kahu Hikinaakala
Susan Lebo	DLNR SHPD
Keola Lindsey	Office of Hawaiian Affairs
Cheryl Lovell-Obatake	Cultural monitor Aha Kiole (Puna District)
Punilei "Uncle Joe" Manini	Kanaka Hui
Liko Kalani Martin	Native Inhabitant
Harry K. Mawae	
Beverly Muraoka	

**Kuhio Highway Short-Term Improvements – Kuamoo Road to Temporary Bypass Road
Section 106 Consultation
List of NHO Participants as of February 2013**

First and Last Name	Organizational Affiliation
Waldeen K. Palmeira	Hui Na Makaiwa o Wailuanuiahoano
Pat & Leah Pereira	Q. Deborah Kapule Hawaiian Civic Club
Sharon Pomroy	Aha Kiole
Anne Punohu	Cultural practitioner & historian
Kupuna Hannah Wahinemaikai o Kaahumanu Keliulananiole o Kalama Kane Reeves	Lineal descendant
Pua Nani Rogers	Hookipa Network
Rupert Rowe	Hui Malamo o Kaneiolouma
D. Kaliko Santos	Office of Hawaiian Affairs
Barbara Say	Kauai Niihau Burial Council
Sy Shim	Konohiki of Kauai
Alicia K. Smith	Makawalu Foundation
Piilani Smith	Papa Ola Lokahi
Mahelani Sylva	Niihau/Kauai Ahamoku, Aha Puaa Community Coordinator
Ed Taniguchi	Konohiki of Kauai
Victoria Wichman	Na Kahu Hikinaakala
Keith Yap	Kauai Niihau Burial Council



Project Area and Area of Potential Effect (APE)
 Adgeestee Boundary
 Traditional Cultural Property (TCP) Boundary
 General Area of Vuntut Gwitchin
 Yellow River
 Wetlands



PROJECT AREA and APE

4.8 Table of Sites and TCP-elements in Wailuanuiho'āno Area Map and Wailua TCP District

	A	B	C	D	E	F	G	H	I
	Site name and/or SHP number	Brief Description	Cultural Values	Integrity / Condition	Eligible or Potentially Eligible Historic Property/TCP/HR HP	Location / Distance from Project Area	Valuation of Significance / National Register (NR) and Hawai'i Register (HR) Criteria	Eligible to be listed in NRHP and HRHP	Adverse Effect to : 1) location 2) design 3) setting 4) materials 5) workmanship 6) feeling 7) association
1	Wailuanuiho'āno	TCP of Wailua. Known also as Wailua Kai, the area extends <i>makai</i> of Maunakapu and Nounou ridges	Spiritual and political center of Kaua'i for centuries. Former residence of royalty and associated with numerous historic and legendary events. An area filled with historic properties including the National Historic Landmark, Wailua Complex of Heiau	Geologic and Cultural Feature	Wailuanuiho'āno	Wailua Kai, the area from Manna Kapu and Nounou to the ocean	A, B, C, D for NR and A, B, C, D and E for HR	Yes. Eligible as a TCP	Setting, Feeling and Association

	A	B	C	D	E	F	G	H	I
2	50-30-08-3962, Cultural Layer found south of Kuamo'o Road	Intermittent traditional cultural layer	Valued by living community and historically and culturally significant	Preserved subsurface, not continuous	Could contain significant information on early pre-Contact and post-Contact occupation.	Occurs south of Kuamo'o Road and possibly extending south to Wailua River	A, B, D for NR A, B, D and E for HR	Yes	Direct Adverse Effect: widening of south side of Kuamo'o Road will directly impact portions of this cultural layer within the right of way
3	50-30-08-1711, Cultural Layer in Coco Palms Resort	Intermittent traditional cultural layer	Valued by living community and historically and culturally significant	Preserved subsurface, not continuous	Could contain significant information on early pre-Contact and post-Contact occupation	Throughout Coco Palms resort and occurs adjacent to K�hi� Highway, not continuous	A, B, D for NR A, B, D and E for HR	Yes	Direct Adverse Effect: widening of the highway adjacent to Coco Palms will directly impact portions of this cultural layer
4	Wailua Coconut Grove Drainage ('Auwai), consisting of two features, a northern section existing before 1930 and a southern 'auwai constructed with the fishponds. 'Auwai is associated with retaining wall remnant	The Wailua Coconut Grove Drainage is located within the 15 ft right-of-way along western/ <i>mauka</i> side of fishponds, reaching Wailua River. It consists of two features: a northern section parallel to fishponds dating before 1930 and a southern section, an 'auwai that connects the southwest corner of the fishpond to the river, likely constructed along with the fishponds (see Flores2000)	Associated with the fishponds' history and valued by living community. Also associated with traditional taro cultivation <i>mauka</i>	Modified for Kuamo'o Road, still functioning in modified form	Wailua Coconut Grove Drainage Ditch	Located in the 15' right of way along western/ <i>mauka</i> side of fishponds, and extends to Wailua River	A, B, D for NR A, B, D and E for HR	Yes	Direct Adverse Effect: improvements on the south side of Kuamo'o Road could impact the sediment within this drainage and the sediments within it. It will also directly impact the wall remnant associated with this drainage
5	Coco Palms Resort	Former resort associated with Coconut Grove	Coco Palms and the Seashell Restaurant is located in Wailuanuiho'�no, the spiritual and political center of Kaua'i for centuries. At its zenith, the hotel itself was arguably the most famous	Resort buildings unoccupied since the early 1990s, buildings derelict and unmaintained.	Important landmark in early Hawai'i tourism	Coco Palms Resort (TMK: 4-1-03.7) is surrounded on the north by Halelio Road and east by K�hi� Highway and shoreline. The south and west border of the property is next to the Coconut	A, B, D for NR A, B, D and E for HR	Yes	

	A	B	C	D	E	F	G	H	I
			resort in Hawai'i, associated with royalty and famous individuals as well as beloved by the general public			Grove. Seashell Restaurant is across Coco Palms, on the beachfront			
6	Coconut Grove	The historic 2,000-tree Coconut Grove was first planted by Ernst Lindeman in the mid-1890s. During Grace Guslander's time, more trees were planted by famous visitors.	The Coconut Grove is associated with the Coco Palms Hotel and its unique presence contributes to the area's special nature. There is cultural attachment for the place.	Fairly intact; unmaintained since early 1990s. Some plaques with the names of luminaries who planted trees are missing.	Coconut Grove (dating from mid-1890s)	Mauka side of Coco Palms Resort	A, B, D for NR A, B, D and E for HR	Yes	
7	50-30-08-680, <i>loka pu'uone</i> or <i>loka hakuone</i> , inland fishponds	The fishpond(s) were once owned by <i>ali'i</i> Deborah Kapule who married King Kaumuali'i in 1817.	Treasured by <i>ali'i</i> most likely even before Deborah Kapule's time and valued by the living community.	Size and condition modified from original state.	Fishpond(s) (also known as Wenwen, Kawaiiki, Kauiki, Kaiwika, Kaiwika)	In Coco Palms Resort	A, B, C, D for NR A, B, C, D for HR	Yes. Already listed in State Register on April 25, 2009.	
8	50-30-08-681, Mahunapu'uone	Burying ground	Valued by living community for their cultural attachment to <i>iwi kūpuna</i> and historically and culturally significant.	Site boundaries not defined, intact burials could still be preserved on Grounds.	Mahunapu'uone (area may also include other burials found at Coco Palms, below)	Within Coco Palms Property, in area of low sand dunes between the fishpond and the sea extending north.	A, D for NR A, D, and E for HR	Yes. Eligible also as a TCP.	
9	50-30-08-681, in the grounds of Coco Palms	Reinterment Site	Valued by living community for their cultural attachment to <i>iwi kūpuna</i> and historically and culturally significant.	Site is intact and in good condition, plaque marks location.	Burials at Coco Palms, SIHP 50-30-08-681	Within Coco Palms Property, near entrance.	A, D for NR A, D, and E for HR	Yes. Historically and culturally significant; may qualify as TCPs because of potential to yield information about the past through archaeological	

	A	B	C	D	E	F	G	H	I
								Investigation and the continuing cultural attachment Native Hawaiians have for their <i>iwi kūpuna</i>	
10	50-30-08-660, and a burial found on March 21, 1994	Burials	Valued by living community for their cultural attachment to <i>iwi kūpuna</i> and historically and culturally significant	Site is intact and in good condition	Burial SIHP 50-30-08-660, and a burial found on March 21, 1994	Burial SIHP 50-30-08-660 is reburied in boulder platform one meter high, north central edge of Coco Palms Property. The 1994 burial was found 100 feet north of Halelio Road beneath Kūhio Highway	D for NR D and E for IIR	Historically and culturally significant; may qualify as TCPs because of potential to yield information about the past through archaeological investigation and the continuing cultural attachment Native Hawaiians have for their <i>iwi kūpuna</i>	
11	50-30-08-330, Cave of Kaluamōkila	Cave was used as secret hiding place by <i>ali'i</i> during times of war and believed to be home of a <i>mo'o</i>	Associated with legendary and historic figures	Unknown	Cave of Kaluamōkila SIHP 50-30-08-330	Location is north of makai portion of Wailua River within the state park, the cave's south end is just above the water level and sealed with a stone	A, B, D for NR A, B, D and E for HR	Yes. Eligible as a TCP	
12	50-30-08-337, Hihikalahau	Hau tree grove where the first <i>hau</i> tree in Kaula'i grew	Associated with legendary figures and events	Well-preserved and maintained	Hihikalahau (SIHP 50-30-08-337)	Situated north of Mauna Kapu, and south of Polihūhū	A, B, D for NR A, B, D and E for HR	Yes. Eligible as a TCP	
13	50-30-08-5014, Rock Wall	Traditionally constructed rock wall with four features, including	Rock wall is constructed in a traditional manner and is of historic	Unknown	Rock Wall SIHP 50-30-08-5014	Adjacent to State Park, parallel and <i>mauka</i> to Kūhio Highway Project	C, D for NR C, D for HR	Yes	

	A	B	C	D	E	F	G	H	I
		rock terrace remnants, and one multi-tiered enclosure complex	value			area			
14	50-30-08-104, Mālaeha'ākoa Heiau	Biggest heiau in Kaunā'i and the only one with buttressed corners. Considered to have been a gathering or assembly site for royal families, starting from A.D. 1200 to the 1800s	Associated with royalty, as well as historic and legendary events and figures	Good condition and well maintained by local cultural group	Heiau of Wailua Mālaeha'ākoa	In the Wailua River State Park mauka of Kāhili Highway on the south side of the river.	A, B, C, D for NR A, B, C, D and E for HR	Yes The Wailua Complex of Heiau and associated sites were designated NHL on December 29, 1962 and subsequently listed in NR. Other heiau are eligible as TCPs	
15	50-30-08-105, Hikinaakali / Pu'uhonua o Hauola	Heiau aligned towards the east with long axis and believed to be built by 14th century chief Waiānuiaho'āne Hauola refers to the <i>pu'uhonua</i> (place of refuge) at the north of the complex.	Associated with royalty, as well as historic and legendary events and figures	Good condition, well maintained	Heiau of Wailua Hikinaakali / Pu'uhonua o Hauola	At the mouth of Wailua River on the makai side	A, B, C, D for NR A, B, C, D and E for HR	Yes The Wailua Complex of Heiau and associated sites were designated NHL on December 29, 1962 and subsequently listed in NR. Other heiau are eligible as TCPs	
16	50-30-08-107, Poli'ahu	Poli'ahu Heiau had a line of communication with Mālaeha'ākoa. Its viewplane of Kālepa, Nounou, and 'A'ahoaka along with Wailua Bay and its size of over an acre possibly	Associated with royalty, as well as historic and legendary events and figures	Good condition, well-maintained	Heiau of Wailua Poli'ahu	Mauka on the north side of Wailua River just makai of Nounou Ridge	A, B, C, D for NR A, B, C, D and E for HR	Yes. The Wailua Complex of Heiau and associated sites were designated NHL on December 29, 1962 and	

	A	B	C	D	E	F	G	H	I
		indicates this site was a <i>luakini</i> (sacrificial) <i>heiau</i> in use since the 1600s or earlier						subsequently listed in NR. Other <i>heiau</i> are eligible as TCPs	
17	50-30-08-108, Kukui Heiau	Built with extremely large stones, suggesting its early construction, Kukui Heiau was a navigational <i>heiau</i> that worked in tandem with Hikinaakala Heiau at the south end of Wailua Bay	Associated with historic and legendary events and figures	Good condition, well maintained	Kakui Heiau (Kohua Heiau)	Alakukui Point, near the border of North Wailua in the Oloheua Ahupua'a	A, B, C, D for NR A, B, C, D and E for HR	Already listed on June 13, 1986 in HRHP and on May 18, 1987 in NR	
18	50-30-08-105A, Petroglyphs or Ka pae ki'i mahu, Na Ki'i Pohaku	Petroglyphs in a field of boulders depicting human forms as well as the only spiral form found in Iiawai'i	Associated with historic and legendary events and figures	Reported by Kikuchi in good condition, present condition unknown, could be covered by sand	Petroglyphs in Wailua River (Ka pae ki'i mahu, Na Ki'i Pohaku, Pae-ki'i-mahu-o-Wailua)	Underwater in Wailua River near Hikinaakala and Hanola	A, B, C, D for NR A, B, C, D and E for HR	Already listed in NR as part of Wailua Complex	
19	50-30-08-106, Pohaku Ho'ohānau/ Holoholokū Heiau, also known as Ka Lae o Ka Manu	Holoholokū Heiau was considered a place of refuge and a <i>heiau</i> where royal children were birthed. The <i>heiau</i> conferred a special status to a child born there, while <i>pohaku ho'ohānau</i> (birthing stone) consists of two rocks where the birthing mother would give birth.	Associated with royalty, as well as historic and legendary events and figures	Condition Good, well maintained	Pohaku Ho'ohānau/ Holoholokū Heiau/ Kalaeokamanu	Within Holoholokū (50-30-08-106) or Ka Lae o Ka Manu Heiau	A, B, D for NR A, B, D and E for NR	Already listed in NR as part of Wailua Complex	
20	50-30-08-335, Pohaku-kani (Bellstone)	Large boulders that made a ringing sound when struck with a smaller rock or <i>ki</i> leaf which echoed throughout Wailua Valley	Associated with royalty, as well as historic and legendary events and figures	Condition good	Pohaku-kani (Bellstone)	Part of the Wailua Complex	A, B, D for NR A, B, D, and E for HR	Already listed in NR as part of Wailua Complex	

	A	B	C	D	E	F	G	H	I
21	"King's Highway" or Kuamo'o Road, also traditionally known as "Kuamo'o loa a Kāne"	Traditional route of <i>ali'i</i> , during events such as processions to <i>heiau</i>	Associated with royalty, as well as historic and legendary events and figures	Original integrity extremely compromised by Kuamo'o Road	"King's Highway" or Kuamo'o Road	Begins close to the mouth of the Wailua River and goes upland. Some sources say that "Kuamo'o loa a Kāne" begins two miles from the sea, following the north fork of Wailua River (Joesting 1988:2)	A, B, D for NR A, B, D and E for HR	Yes. Eligible as a TCP	
22	Makaīwa surf	A special curving wave rode by royalty	Associated with royalty, as well as historic and legendary events and figures	Surf spot	Makaīwa	Near mouth of Wailua River, or outside Kukui Heiau	A, B for NR A, B and E for HR	Yes. Eligible as a TCP	
23	Kalehuawehe	Traditional name for Wailua Bay as well as special wave	Associated with royalty, as well as historic and legendary events and figures	Surf spot	Kalehuawehe (Wailua Bay and surf site)	Wailua Bay and surf site is located on the river mouth side of Wailua Bay	A, B for NR A, B and E for HR	Yes. Eligible as a TCP	
24	50-30-08-331, Rice Mill	Rice Mill	Historic	Unknown	Rice Mill SHP 50-30-08-331	North of mouth of Wailua River, <i>maka</i> of Smith's old boat landing	A, D for NR A and D for HR	Yes	
25	Burial at 310 Apana Road	Burial	Valued by living community for their cultural attachment to <i>iwi kūpuna</i> and historically and culturally significant	Unknown	Burial (according to Mrs Muraoka's interview)	310 Apana Road, Wailua, Kaua'i	Yes. May qualify as a TCP because of potential to yield information about the past through archaeological investigation and the continuing cultural attachment Native Hawaiians have for their <i>iwi kūpuna</i>		
26	Mount Nounou, also known as Sleeping Giant	Mountain	Associated with historic and legendary events and figures	Geologic Feature	Mount Nounou (Ridge)	Kawaihau District, Kaua'i	A, B for NR A, B and E for HR	Yes	

	A	B	C	D	E	F	G	H	I
27	50-30-08-761, Burial found in north bank of Wailua River	Burial	Valued by living community for their cultural attachment to <i>iwi kīpuna</i> and historically and culturally significant	Burial was relocated from original site	Burial found in north bank of Wailua River	4-500' south of Kuamo'o Road	D for NR and D and E for HR	Yes	
28	50-30-08-675, Poli'ahu Japanese Cemetery	Cemetery	Valued by living community for their cultural attachment to <i>iwi kīpuna</i> and historically and culturally significant	Moderate condition	Poli'ahu Japanese Cemetery (Buddhist Cemetery) SIHP 50-30-08-675	Located at east end of Pu'u Ki Ridge above Pōhaku Ho'ehānau and Holoholokā Heiau, southside of Kuamo'o Road	A, C, D for NR A, C, D and E for HR	Yes	
29	Mauna Kapu or Mount Kapu	Mountain	Associated with historic and legendary events and figures	Geologic Feature	Kūlepa Ridge (Mauna Kapu)	Kawahau District, Kaua'i, Prominent Ridge on the south side of the River	A, B for NR and A, B, D for HR	Yes. Eligible as a TCP	
30	Wailua River	River, 11.8 miles in length	Associated with royalty, as well as historic and legendary events and figures	Geologic Feature	Wailua River	Starts at Wai'ale'ale crater and ends at the Pacific Ocean, next to Wailua River State Park	A, B, D for NR A, B, D and E for HR	Yes. Eligible as a TCP	
31	Kuamo'o Ridge	The ridgeline is associated with the spine of the <i>mo'o</i> , with the head of the <i>mo'o</i> toward Wai'ale'ale and the tail being Wailua Beach. This ridge led <i>ali'i</i> and others on their spiritual journey to honor Kāne on Mt. Wai'ale'ale, where offerings were left on Ka'awakō Heiau	Associated with royalty, as well as historic and legendary events and figures	Geologic and Cultural Feature	Could contain significant information on early pre-Contact and post-Contact occupation	Parallel to Kuamo'o Road, going <i>maka</i>	A, B, D for NR A, B, D and E for HR	Yes. Eligible as a TCP	
32	Wailua Beach and Heiau		Associated with royalty, as well as historic and	Geologic and Cultural Feature	Could contain significant information on early pre-Contact and post-Contact	Near the rivermouth of Wailua River	A, B, D for NR A, B, D and E for HR	Yes. Eligible as a TCP	

	A	B	C	D	E	F	G	H	I
			legendary events and figures		occupation				
33	Mount Wai'ale'ale and Ka'awakō Heiau	Mount Wai'ale'ale, with its summit Kawaikini, is the highest spot on Kaua'i and literally means "rippling water." On the summit is Ka'awakō Heiau which is traditionally connected and spiritually aligned with the other <i>heiau</i> below, located in Wailuanuiho'āno. Ali'i and their companions visited the <i>heiau</i> on regular occasions, beginning their pilgrimage from the mouth of Wailua River and then onward up a trail known as King's Highway or Kuamo'o Ima a Kane. A gift like <i>'awa</i> (<i>Piper methysticum</i>) was borne and dragged up the steep cliff and placed on Ka'awakō Heiau as an offering	Associated with royalty, as well as historic and legendary events and figures	Geographic and Cultural Feature	Could contain significant information on early pre-Contact and post-Contact occupation	Mount Wai'ale'ale is the location of the highest peak in Kaua'i. The <i>heiau</i> is on the summit of Mt. Wai'ale'ale	A, B, D for NR A, B, D and E for HR	Yes Eligible as a TCP	

	A	B	C	D	E	F	G	H	I
34	Kamuali'i Park	Once owned by King Kamuali'i	Treasured by <i>ali'i</i> most likely even before King Kamuali'i's reign and valued by the living community	Geographic and Cultural feature	Could contain significant information on early pre-Contact and post-Contact occupation	Across Coco Palms Resort, along Kuamo'o Road, on Wailua State Park	A, B, C, D for NR A, B, D and E for HR	Yes. Also eligible as a TCP	
35	50-30-08-104A Adze Workshop/Flake Scatter	Located within the heiau area	Valued by living community and historically and culturally significant	Cultural Feature	Could contain significant information on early pre-Contact and post-Contact occupation	In cane field north and northeast of Mālae Heiau to road to marina. Within 9.49 acre Mālae Heiau and buffer parcel in State Park	A, B, D for NR A, B, D and E for HR	Yes	
36	50-30-08-677 Two Lava Tubes	No cultural material observed but traditional use likely	Valued by living community and historically and culturally significant	Geologic and Cultural Feature	Could contain significant information on early pre-Contact and post-Contact occupation	Just S of Kuamo'o Road in the north side of Pu'u KI 100 m west of Pōhaku He'ohānau	A, B, D for NR A, B, D and E for HR	Yes	
37	50-30-08-678 Terrace	Modest alignment on top of ridge	Valued by living community and historically and culturally significant	Cultural Feature	Could contain significant information on early pre-Contact and post-Contact occupation	Central Pu'u KI summit ridge	A, B, D for NR A, B, D and E for HR	Yes	
38	50-30-08-756 Terrace	In State Park, 30 m by 12 m-further archaeological work indicated	Valued by living community and historically and culturally significant	Cultural Feature	Could contain significant information on early pre-Contact and post-Contact occupation	North bank of Wailua River	A, B, D for NR A, B, D and E for HR	Yes	
39	50-30-08-343 Kula	Virtually no data, size unclear, further work in area indicated; in State Park	Valued by living community and historically and culturally significant	Geologic and Cultural Feature	Could contain significant information on early pre-Contact and post-Contact occupation	South side of <i>makai</i> portion of Wailua River		Yes	
40	50-30-08-342 Agricultural Flat	Agricultural flat "appears as rice land on Monsarrat's map of 1900 and Wall's map of 1923". Virtually no data.	Valued by living community and historically and culturally significant	Cultural Feature	Could contain significant information on early pre-Contact and post-Contact occupation	North of <i>makai</i> portion of Wailua River		Yes	

	A	B	C	D	E	F	G	H	I
		size unclear, further work in area indicated; in State Park							
41	50-30-08-676 Alignments and Enclosures	Greatly modified as a contemporary sacred site – possibly former <i>heiau</i>	Valued by living community and historically and culturally significant	Cultural Feature	Could contain significant information on early pre-Contact and post-Contact occupation		A, B, D for NR A, B, D and E for HR	Yes	
42	Trail Remnant	Possible extension of King's Highway. Trail obscured by Kāhio Highway and bike path wall	Associated with royalty, as well as historic and legendary events and figures	Integrity is low	"King's Highway" or Kuamo'o Road	Close to the Kāhio Highway on the south side of Wailua River	A, B, D for NR A, B, D and E for HR	Yes. Eligible as a TCP	



U.S. Department
of Transportation
**Federal Highway
Administration**

Hawaii Federal-Aid Division

July 2, 2012

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Box 50206
Honolulu, HI 96850
Phone: (808) 541-2700
Fax: (808) 541-2704
<http://www.fhwa.dot.gov/hidiv>

In Reply Refer To:
HDA-HI

Mr. William J. Aila, Jr.
Chairperson and State Historic Preservation Officer
State of Hawaii, Department of Land and Natural Resources
601 Kamokila Boulevard, Room 555
Kapolei, HI 96707

Dear Mr. Aila:

**Subject: Kuhio Highway Short Term Improvements, Kuamo'o Road to Temporary Bypass Road
Section 106 of the National Historic Preservation Act
Identification of Historic Properties Affected and Notification of Adverse Effect
Wailua and South Olohena Ahupuaa
Puna and Ko'olau Districts, Island of Kauai
Federal Aid Project No.: NH-056-1(50)**

The State of Hawaii, Department of Transportation (DOT), Highways Division is proposing to implement the Kuhio Highway Short-Term Improvements Project which is located in Wailua on the Island of Kauai. The Federal Highway Administration (FHWA) is proposing to authorize construction of this undertaking.

This letter with attachments is being submitted to document consultation efforts conducted for this undertaking pursuant to Section 106 of the National Historic Preservation Act (NHPA) and the Advisory Council on Historic Preservation's (ACHP) regulations for Protection of Historic Properties (36 CFR, Part 800). We have identified historic properties in the subject project's Area of Potential Effect (APE) and applied the criteria of effect based upon 36 CFR §800 for the proposed undertaking, and have determined that it will have an "adverse effect" on historic properties. We have outlined our reasoning in the following paragraphs and request your concurrence with the proposed "adverse effect" determinations for this project.

The §106 process identified Wailuanuiho'ano as a traditional cultural property (TCP); Wailuanuiho'ano is described in the *Section 106 Consultation and Survey of Potentially Eligible Traditional Cultural Properties in Wailua Kai, Kauai* prepared for this project by Cultural Surveys Hawaii (enclosed). We have identified the project APE as being within and a portion of Wailuanuiho'ano. Consultation efforts and studies conducted in accordance with 36 CFR §800 resulted also in the identification of three known archeological resources within the APE that would be negatively affected by the project improvements. The historic resources

identified within the APE are:

1. SIHP #50-30-08-1711 Cultural Layer
2. SIHP #50-30-08-3962 Cultural Layer
3. SIHP #50-30-08-2158 Ditch/Auwai

These resources are identified and described in the *Archaeological Inventory Survey for the State DOT Kuhio Highway Short-Term Improvement Project, Wailua Ahupua'a, Kawaihau District, Island of Kaua'i* (enclosed) prepared for this project by Cultural Surveys Hawaii. The subsurface impacts associated with the current project will have an "adverse affect" on these properties.

Wailuanuiāho'āno, also known as Wailua Kai, is a highly important spiritual place for many Hawaiians. As a testament to the significance of Wailua, there is a wealth of mo'olelo (history, story, legend, myth), oli (chant), and other Native Hawaiian folklore genres related to the area. Wailuanuiāho'āno is eligible for inclusion in the National Register because it meets the criteria for inclusion in the National Register as a property of religious and cultural significance to Native Hawaiian Organizations.

In regards to integrity, the numerous individual elements, especially the Wailua Complex of Heiau National Historic Landmark, which consist of five discontinuous properties, constitute a cultural and religious setting, that despite the development within the TCP, still retain the character of the place in which the TCP played its historic role. Nowhere else in the Hawaiian islands are there four major religious monuments (Mālaeha'akoa Heiau, Hikinaakalā Heiau/Pu'uhonuo o Hauola, Poli'ahu Heiau, and Pohakū Ho'ohānau/Holoholokū Heiau) that are preserved, visually integrated in the landscape, and are all tied together by a common geographical feature, the Wailua River.

FHWA has determined that this project will have an "adverse effect" on the Wailuanuiāho'āno TCP. This project will have direct impacts on the three archeological sites that are within the APE of the project and contribute to the TCP. However, the adverse impacts to the archeological resources will not diminish the integrity of the TCP's location, design, setting, materials, workmanship, feeling, or association beyond the impacts to the archeological elements. The project will not increase traffic demand in the area but relieve roadway congestion. The details of the adverse effect to the archeological resources are as follows:

1. Impact to SIHPs #50-30-08-1711, #50-30-08-3962, and #50-30-08-2158. The project has a direct physical impact to the above three archeological resources. Widening of Kuhio Highway will directly impact the cultural layers of the first two sites while improvement of Kuamo'o Road will impact both the sediments and wall remnant of the third site. FHWA has concluded that these identified resources are important chiefly because of what can be learned by data recovery and they have minimal value for preservation in place. Because these three sites are elements that contribute to the TCP, the adverse effect on these sites is also an adverse effect on the TCP.
2. "An adverse effect is found when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design,

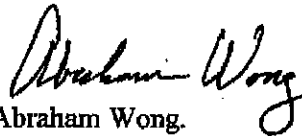
setting, materials, workmanship, feeling, or association."¹ The project is altering archeological resources of the TCP that contribute to its eligibility for the National Register. While it can be argued that the project is altering both the characteristics and integrity of the TCP, the project is impacting a small and limited part of an already compromised area within the APE. However, per 36 CFR 800.5(a)(1), this is considered an adverse effect on the TCP.

In summary, the project will have an adverse effect on the three archeological elements discussed above with a resultant adverse effect on the Wailuanuiho'āno TCP.

We request your concurrence with the proposed "adverse effect" determinations for this project. Enclosed for your review is documentation supporting this determination. This documentation was prepared based in part upon your department's guidelines for Section 106 submissions.

We would greatly appreciate your response within 30 days of receipt of this letter. If you have any questions or comment regarding this consultation request, please contact John Nickelson at 541-2304.

Sincerely yours,


Abraham Wong.
Division Administrator

Enclosure: Kuhio Highways Short Term Improvements Project – Consultation Under Section 106 of the National Historic Preservation Act
NHO Consultation Appendices
Archaeological Inventory Survey for the State DOT Kuhio Highway Short-Term Improvement Project, Wailua Ahupua'a, Kawaihau District, Island of Kaua'i
Section 106 Consultation and Survey of Potentially Eligible Traditional Cultural Properties in Wailua Kai, Kaua'i.

cc: Advisory Council on Historic Preservation
NHOs

¹ 36 CFR 800.5(a)(1)



U.S. Department
of Transportation
**Federal Highway
Administration**

Hawaii Federal-Aid Division

July 25, 2012

FILE COPY

300 Ala Moana Blvd, Rm 3-306
Box 50206
Honolulu, Hawaii 96850
Phone: (808) 541-2700
Fax: (808) 541-2704

In Reply Refer To:
HDA-HI

Ms. Carol Legard
Advisory Council on Historic Preservation (ACHP)
Old Post Office Building
1100 Pennsylvania Avenue, NW, Suite 809
Washington, D.C. 20004

Subject: Kuhio Highway Short-Term Improvements, Kuamo'o Road to Temporary Bypass Road
Section 106 of the National Historic Preservation Act (NHPA)
Identification of Historic Properties Affected and Notification of Adverse Effect
Wailua and South Oloheua Ahupuaa
Puna and Ko'olau Districts, Island of Kauai
Federal Aid Project No.: NH-056-1(50)

Dear Ms. Legard:

The Federal Highway Administration (FHWA) requests your participation in consultation regarding a Traditional Cultural Property (TCP) that we have determined may be eligible for the National Register of Historic Places (National Register) and will be adversely affected by the planned Kuhio Highway Short-Term Improvements Project (Project), which is located in Wailua on the Island of Kaua'i. The Hawaii Department of Transportation, Highways Division (HDOT), is proposing to implement the Project. The FHWA is proposing to authorize construction of this undertaking.

This letter with enclosures is provided to document consultation efforts conducted for this undertaking pursuant to Section 106 of the NHPA and the Advisory Council on Historic Preservation's (ACHP) regulations for Protection of Historic Properties (36 CFR, Part 800). We have identified historic properties in the subject project's area of potential effects (APE), applied the criteria of effects based upon 36 CFR §800 for the proposed undertaking, and have determined that it will have an "adverse effect" on historic properties, including the TCP. We have outlined our reasoning in the following paragraphs and wish to know your interest in consultation concerning this project.

Through the Section 106 consultation process, Wailuanuiho'ano was identified as a TCP. Wailuanuiho'ano is described in the *Section 106 Consultation and Survey of Potentially Eligible Traditional Cultural Properties in Wailua Kai, Kaua'i* prepared for this project by Cultural Surveys Hawaii (enclosed). We have identified the project APE as being within and a portion of Wailuanuiho'ano. Consultation efforts and studies conducted in accordance with 36 CFR §800 also resulted in the identification of three known archeological resources within the

APE that would be negatively affected by the project improvements. The historic resources identified within the APE are:

1. SIHP #50-30-08-1711 Cultural Layer
2. SIHP #50-30-08-3962 Cultural Layer
3. SIHP #50-30-08-2158 Ditch/Auwai

These resources are identified and described in the *Archaeological Inventory Survey for the State DOT Kuhio Highway Short-Term Improvement Project, Wailua Ahupua'a, Kawaihau District, Island of Kaua'i* (enclosed) prepared for this project by Cultural Surveys Hawaii. The subsurface impacts associated with the current project will have an "adverse affect" on these properties.

Wailuanuiaho'āno, also known as Wailua Kai, is a highly important spiritual place for many Hawaiians. As a testament to the significance of Wailua, there is a wealth of mo'olelo (history, story, legend, myth), oli (chant), and other Native Hawaiian folklore genres related to the area. Wailuanuiaho'āno is eligible for inclusion in the National Register because it meets the criteria for inclusion as a property of religious and cultural significance to Native Hawaiian organizations.

In regards to integrity, the numerous individual elements, especially the Wailua Complex of Heiau National Historic Landmark, which consist of five discontinuous properties, constitute a cultural and religious setting, that despite the development within the TCP, still retain the character of the place in which the TCP played its historic role. Nowhere else in the Hawaiian islands are there four major religious monuments (Mālaeha'akoa Heiau, Hikinaakalā Heiau/Pu'uhonuo o Hauola, Poli'ahu Heiau, and Pohakū Ho'ohānau/Holoholokū Heiau) that are preserved, visually integrated in the landscape, and are all tied together by a common geographical feature, the Wailua River.

The FHWA has determined that this project will have an "adverse effect" on the Wailuanuiaho'āno TCP. This project will have direct impacts on the three archeological sites that are within the APE of the project and contribute to the TCP. However, the adverse impacts to the archeological resources will not diminish the integrity of the TCP's location, design, setting, materials, workmanship, feeling, or association beyond the impacts to the archeological elements. The project will not increase traffic demand in the area but relieve roadway congestion. The details of the adverse effect to the archeological resources are as follows:

1. Impact to SIHPs #50-30-08-1711, #50-30-08-3962, and #50-30-08-2158. The project has a direct physical impact to the above three archeological resources. Widening of Kuhio Highway will directly impact the cultural layers of the first two sites, while improvement of Kuamo'o Road will impact both the sediments and wall remnant of the third site. The FHWA has concluded that these identified resources are important mainly because of what can be learned by data recovery and they have minimal value for preservation in place. Because these three sites are elements that contribute to the TCP, the adverse effect on these sites is also an adverse effect on the TCP.
2. "An adverse effect is found when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association."¹ The project is altering

¹ 36 CFR 800.5(a)(1)

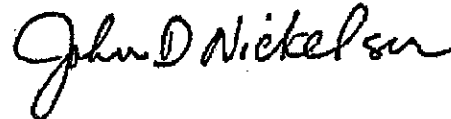
archeological resources of the TCP that contribute to its eligibility for the National Register. While it can be argued that the project is altering both the characteristics and integrity of the TCP, the project is impacting a small and limited part of an already compromised area within the APE. However, per 36 CFR 800.5(a)(1), this is considered an adverse effect on the TCP.

In summary, the project will have an adverse effect on the three archeological elements discussed above with a resultant adverse effect on the Wailuanuiāho'āno TCP. This documentation was prepared based in part upon National Parks Service guidelines for Section 106 submissions. In accordance with 36 CFR 800.6(a)(1), we are inviting the ACHP to participate in the consultation process to resolve the adverse effects of this undertaking on historic properties.

A Memorandum of Agreement (MOA) will be prepared for execution that outlines actions to be taken (mitigation measures) to ensure documentation and protection of historic properties found within the highway corridor. In addition, the MOA shall stipulate specific actions to be taken to mitigate potential impacts to historic properties.

Please advise us within 15 days of receipt of this notice whether the ACHP will participate in the consultation process. Thank you for your consideration. If you have any questions or comment regarding this consultation request, please contact me at 541-2304.

Sincerely Yours,



John D. Nickelson, P.E.
Civil Engineer

Enclosures

cc: Hawaii Department of Transportation

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE HISTORIC PRESERVATION DIVISION
601 KAMOKILA BOULEVARD, ROOM 555
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KEN C. KAWAHARA
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AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
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CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAPOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

March 16, 2009

Mr. David Schideler
Cultural Surveys Hawai'i
P. O. Box 1114
Kailua, Hawai'i 96734

LOG NO: 2009.1329
DOC NO: 0903 WT117
Archaeology

Dear Mr. Shideler:

**SUBJECT: National Historic Preservation Act – Section 106 Review—
FINAL Archaeological Monitoring Plan for the Proposed Kūhiō Highway Short –
Term Improvements – Kuamo'o Road to the Temporary Kapa'a Bypass Road
Project,
Wailua Ahupua'a, Puna District, Kaua'i
TMK: (4) 4-1-003: 017, 039, 044 and 4-3-002: 006 por.**

Thank you for providing the opportunity to review this Final Archaeological Monitoring Plan (AMP) (FINAL *Archaeological Monitoring Plan for the Proposed Kūhiō Highway Short-Term Improvements – Kuamo'o Road to the Temporary Kapa'a Bypass Road Project, Wailua Ahupua'a, Puna District, Kaua'i* TMK: (4) 4-1-003: 017, 039, 044 and 4-3-002: 006 por. [Goza and Schideler MA, March 2009]) which we received on March 10, 2009.

This project is the creation of short-term improvements to the Kūhiō Highway between Kuamo'o Road on the south and the Temporary Kapa'a Bypass Road on the north. The project area is located in an archaeologically sensitive area fronting the Coco Palms Resort where previous archaeological inventory surveys recorded a widely dispersed buried cultural layer and numerous human burials on the grounds of the resort. These findings were the impetus behind the request from this office to develop this AMP (LOG NO: 2007.2373/DOC NO: 0707NM35 and LOG NO: 2007.1399/DOC NO: 0708NM20).

We requested revisions including the checking of references so that all match throughout the body of the report and in the References Cited Section and the revision of the Background Summary and the Predictive Model Section. These revisions have been made.

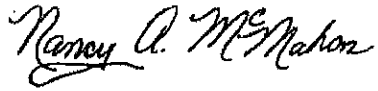
This AMP is accepted and meets the minimum requirements for compliance under HRS and Hawaii Administrative Rules (HAR) §13-13-279: *Rules Governing Standards for Archaeological Monitoring Studies and Reports*.

As this monitoring plan has received final acceptance, and we are in receipt of a hard copy, we will mark this document as FINAL and place in our library. Please send a copy of this review letter and a text-searchable PDF version on CD to the attention of Wendy Tolleson and the "SHPD Library" at the Kapolei SHPD office.

Please contact Wendy Tolleson at (808) 692-8024 if you have any questions or concerns regarding this letter.

Mr. David Schideler
Page 2

Aloha,

A handwritten signature in cursive script that reads "Nancy A. McMahon". The signature is written in dark ink and is positioned above the printed name.

Nancy A. McMahon (Deputy SHPO)
State Historic Preservation Officer

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE HISTORIC PRESERVATION DIVISION
601 KAMOKILA BOULEVARD, ROOM 555
KAPOLEI, HAWAII 96707

LAURA E. THIELER
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CONSERVATION AND COASTAL LANDS
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KANDOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

April 6, 2009

Mr. David Shideler
Cultural Surveys Hawai'i
P. O. Box 1114
Kailua, Hawai'i 96736

LOG NO: 2009.1375
DOC NO: 0904WT34
Archaeology

Dear Mr. Shideler:

**SUBJECT: Section 106 National Historic Preservation Act (NHPA) Review--
Addendum to: Archaeological Monitoring Plan--
For the Proposed Kūhiō Highway Short-Term Improvements--Kuamo'o Road to
the Temporary Kapa'a Bypass Road Project,
Wailua Ahupua'a, Puna District, Kaua'i, Hawai'i
TMK: (4) 4-1-003: 017, 039, 044 and 4-3-002: por. 006**

Thank you for providing us the opportunity to review this Addendum to the Archaeological Monitoring Plan (AMP), (*Addendum to: Archaeological Monitoring Plan For the Proposed Kūhiō Highway Short-Term Improvements--Kuamo'o Road to the Temporary Kapa'a Bypass Road Project, Wailua Ahupua'a, Puna District, Kaua'i, Hawai'i, TMK: (4) 4-1-003: 017, 039, 044 and 4-3-002: por. 006 [Goza, Shideler and Hammatt, PhD, March 2009]*) which we received on March 13, 2009.

The original AMP (*Archaeological Monitoring Plan for the Proposed Kūhiō Highway Short-Term Improvement--Kuamo'o Road to the Temporary Kapa'a Bypass Road, Wailua Ahupua'a, Puna District, Kaua'i TMK: [4] 4-1-003: 017, 039, 044 and 4-3-002: por. 006 [Goza et al, 2009]*) concerns monitoring recommendations for approximately 0.66 miles (1,066.8) of Kūhiō Highway north of Kuamo'o Road.

This addendum plan for Kaua'i County and the State Department of Transportation contains recommendations for work within an additional 0.84 miles (1,351.8) of Kūhiō Highway south of Kuamo'o Road. The entire current project is a 1.5 miles (2348 meter) section of Kūhiō Highway. The project will involve geotechnical testing via boring approximately every 500 feet for a proposed underground electrical alignment. Testing will be conducted within a narrow strip on either the *mauka* or *makai* side of the highway.

Historic properties recorded north of the Wailua River include a traditional Hawaiian burial ground, an isolated historic burial, and pre-contact Hawaiian and historic cultural deposits adjacent to the Coco Palm Resort grounds. While subsurface archaeological testing within and just *mauka* of this portion of the project area revealed fill soils, human burials or intact cultural materials may be encountered during project activities. Historic properties recorded south of the Wailua River are the Malae Heiau (SIHP #50-30-08-104 and listed on the State and National Registers) which lies approximately 90 meters west of Kūhiō Highway. Some subsurface archeological testing has been conducted within the vicinity of this portion of the project area and indicates fill or clay soils, however, this portion of Kūhiō Highway extends through LCA 3567.

Because of the possibility of disturbing historic properties, on-site monitoring is recommended for all ground disturbance activities north of the Wailua River. On-site monitoring is also recommended for any

Dr. David Shideler

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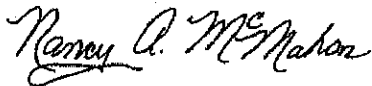
ground disturbance within 100 m. of Malae Heiau to ensure avoidance of SIHP #50-30-08-5014 (the rock wall) mauka of Kūhiō Highway and Malae Heiau. On site monitoring is also recommended within 1,500 feet of the northern portion of Leho Drive. Finally, on-call monitoring is recommended for all ground disturbance activities of the northern portion of Leho Drive.

This DRAFT Addendum AMP is accepted and meets the minimum standards for compliance under the Hawai'i Administrative Rules (HAR) §13-13-279 *Rules Governing Standards for Archaeological Monitoring Studies and Reports*.

Please send a hardcopy clearly marked FINAL, as well as a text-searchable PDF version on CD along with a copy of this review letter to the attention of Wendy Tolleson and "SHPD Library" at the Kapolei SHPD office.

Please contact Wendy Tolleson at (808) 692-8024 if you have any questions or concerns regarding this letter.

Aloha,

A handwritten signature in cursive script, reading "Nancy A. McMahon".

Nancy A. McMahon (Deputy SHPO)
State Historic Preservation Officer

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE HISTORIC PRESERVATION DIVISION
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LAND
STATISTICS

March 10, 2010

Mr. David Shideler
Cultural Surveys Hawai'i
P.O. Box 1114
Kailua, Hawai'i 96734

LOG NO: 2010.0392
DOC NO: 1003NM19
Archaeology

Dear Mr. Shideler:

SUBJECT: Chapter 6E-8 Historic Preservation Review -
Second Addendum to Archaeological Monitoring Plan for the Proposed Kuhio Hwy
Short-Term Improvements Kuamo'o Road To Temporary Kapaa Bypass Road
Wailua Ahupua'a, Puna District, O'ahu
TMK: (4) 3-9-002: 000

Thank you for the opportunity to review the above Draft Second Addendum to the *Archaeological Monitoring Plan for the Proposed Kuhio Hwy Short-Term Improvements to Kuamoos Road to Temporary Kapaa Bypass Road, Wailua Ahupuaa, Puna District, Kauai TMK 4-1-003: por and 05; 3-9-002 por & 006 por; 3-001 por 10 (Groza, Shideler and Hammatt, CSH, January 2010)* which we received on February 2, 2010.

This *DRAFT Archaeological Monitoring* sets out protocols for archaeological monitoring of this undertaking as mitigation for possible effects to historic properties. We again suggest trying to address research question in your monitoring work.

This AMP is accepted, and meets the minimum requirements of Hawaii Administrative Rules, §13-279 *Rules Governing Standards for Archaeological Monitoring Studies and Reports*. Please send a bound hardcopy with the word FINAL in the title and a pdf searchable version on CD, with a copy of this letter attached, to the SHPD library at Kapolei,

Aloha,

Nancy McMahon, Deputy SHPO/State Archaeologist
and Historic Preservation Manager