

**August 13, 2019 Objection to the MOA by Makani Hou and FHWA/HDOT Response**

No.	Stipulation	Makani Hou Objection	FHWA/HDOT Response	Resolved?
n/a	GENERAL	<p>General-HDOT and FHWA reps are not trained in 106 process. FHWA should hold 2-day training and develop consultation protocols.</p> <p>HDOT, FHWA reps are not trained to plan and conduct respectful, good faith consultations with NHOs. Need to develop more trust, respect, and better relationships among NHOs and HDOT, FHWA staff. HDOT and FHWA staff are not aware and appreciative of the unique history that Hawaiians have with federal and state agencies. and the State of Hawaii and the US Government.</p> <p>RESO. 1. For future consultations, Identify and assign HDOT, FHWA staff who have attended ACHP workshops and are familiar with the ACHP guidelines on consulting with NHOs. 2. Develop a separate MOA to tailor how consultation will be carried out to the satisfaction with NHOs the HDOT and FHWA and file that MOA with the ACHP and SHPO. 3. FHWA should conduct an annual 2-day "Workshop for Communicating with Hawaiians" and contract qualified Hawaiian experts to share their expertise on various forms of Hawaiian history, cultural, beliefs, religion, traditions, language, protocol, etc.- just like the Dept. of Defense did for top-level commanders in Hawaii and those staff assigned to various forms of cultural/natural resource management at all military bases in Hawaii.</p> <p><b>Additional Information from October 25<sup>th</sup> meeting:</b></p> <p>1. Mr. Cachola, who has worked with the Army on consultation protocols, believes that FHWA should develop formal consultation protocols for consulting with Native Hawaiians. These should</p>	<ol style="list-style-type: none"> <li>1. HDOT has hired facilitators for meetings with consulting parties to keep consultation meetings respectful.</li> <li>2. Nationally, FHWA is currently setting up a contract to build an on-line Section 106 tutorial that will include components about Tribal, Native Hawaiian, and Native Alaskan consultation.</li> <li>3. FHWA and HDOT believe the relationship building workshops (Stipulation 14) were invaluable and have stimulated discussions on consulting with Native Hawaiian Organizations, Also, as a result of the relationship building workshops, HDOT held an internal future plan of action meeting to better engage and build relationships with NHO's.</li> <li>4. HDOT has also been attending the Association of Hawaiian Clubs Annual Conventions to present information to NHOs which is a direct result of lessons learned from the Queen K project and relationship building workshops.</li> <li>5. As we discussed in our meeting in October, we agree future MOAs should have more clarity on which stages the consultation shall occur, but a separate MOA for consultation will not be developed at this time.</li> <li>6. Thank you for your other suggestions on how to improve consultation with NHOs such as the two-day workshop and formal consultation protocols. FHWA has taken them under consideration and are having discussions with HDOT.</li> </ol>	

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		<p>be published and available nationwide, similar to those available for the DOD and the ACHP.</p> <p>2. HDOT should have a separate MOA stipulating how consultation with NHOS will be carried out. This MOA should be between ACHP, FHWA, SHPD, HDOT and NHOs.</p> <p>3. FHWA should conduct an annual 2-day training, similar to the Army, in which Hawaiian experts share their expertise on Hawaiian history, cultural beliefs, religions, traditions, language and protocol. The first day would be for HDOT Admin and the 2nd day for on-the-ground staff.</p>		
4	<p><b>ARCHAEOLOGICAL PRESERVATION AND MITIGATION PLAN (APMP, APRIL 2014), DATA RECOVERY AND PRESERVATION PLAN (DRPP, OCTOBER 2012), ARCHAEOLOGICAL MONITORING PLAN (AMP OCTOBER 2012) and BURIAL TREATMENT PLAN (BTP, OCTOBER 2012).</b></p> <p>a. FHWA will ensure that HDOT complies with the implementation of the APMP, AMP, DRPP, and BTP and its compliance with the conditions of approval stipulated by SHPD.</p> <p>b. The HDOT shall provide the parties to this MOA a copy of the findings of the APMP, AMP and DRPP activities.</p> <p>c. Further, construction, including ground-disturbing activities will not commence until the data recovery fieldwork has been completed and a data recovery end of fieldwork report has been drafted and approved by SHPD.</p> <p>d. The end of fieldwork report shall be submitted to all parties of this MOA and NHOs who participated in the consultation process.</p> <p>e. The Data Recovery Final Report shall be submitted to SHPD for their approval.</p>	<p>Stipulation #4 - Arch. and Preservation and Mitigation Plan - Fieldwork report submitted to NHOS (CPs) ??</p> <p>RESO. Send a copy to NHOs, and all MOA signatories and put on agenda for discussion and review at a future meeting</p> <p><b>Additional information from October 25<sup>th</sup> meeting:</b></p> <p>Cachola wants a paper copy of everything.</p>	<ol style="list-style-type: none"> <li>1. The plans have been previously posted on the sharesite for download on 4/8/17.</li> <li>2. As requested, paper copies were made available at the November 23<sup>rd</sup> 2019 meeting.</li> <li>3. An agenda item has been added for the February 8<sup>th</sup>, 2020 meeting for an open discussion of MOA stipulations.</li> </ol>	

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5B	<p><b>NATIVE HAWAIIAN CULTURAL OUTREACH AND EDUCATION.</b></p> <p>a. The HDOT and the University of Hawai'i at Hilo (UHH) have entered into a Memorandum of Understanding (MOU) to provide cultural programs and education to support Native Hawaiian studies.</p> <p>b. The HDOT shall ensure that the MOU between HDOT and UHH to provide cultural programs is fully implemented over the five year duration of the agreement.</p> <p>c. Annual reports documenting the activities of the past calendar year will be made available to all consulting parties.</p>	<p># 5 - Native Hawaiian Cultural Outreach and Education - NHOs who initiated this mitigation measure were not consulted when the MOA was est. with UH-Hilo and the HDOT; nothing is done in the 5-yr. duration of the MOA. No reports of any kind submitted for the entire 5-yr. period - no communications about HDOT failure to implement this significant mitigation measure - appears to be a blatant disregard of the MOA and any respect for the interest of the NHOs and other signatories. A new MOA is being drafted by HDOT - and again, the NHOs are not consulted - an insult to the NHOs who worked very diligently during the 18-months of negotiating for this item to be one of the stipulations in the MOA.</p> <p>RESO. Include the NHOs in developing the new MOA with UH-Hilo. Some of us are very familiar with sponsoring/est. scholarships for Universities, Colleges, and High Schools. One of us had a 25-year career as the Director of the Kamehameha Schools Extension/Outreach Division for developing educational outreach programs for Hawaiians and Hawaiian communities. None of the HDOT has this kind of extensive educational outreach experience. Some of us have good personal and professional relationships with staff at the UH-Hilo - more so than any of the HDOT staff. One of us initiated the amendment to include the Kohala Education Center to conduct certain community programs in this stipulation. So why are the NHOs completely omitted in developing the new MOA with the UH-Hilo??</p> <p><b>Additional input from October 25<sup>th</sup> meeting:</b></p> <p>Cachola noted that he and Harp initiated this item. Naleimaile, who at that time had a small non-profit, was also involved. Originally, it was thought that scholarship funding could go through Naleimaile's organization. They were not consulted on the end product. Then, nothing</p>	<ol style="list-style-type: none"> <li>1. Yes, this stipulation is late in getting started. The revised MOU between UH and HDOT is the same as the original MOU with the addition of the Kahala Center as you had requested. It also added additional funds.</li> <li>2. Per Makani Hou request at 10/25/19 meeting, UHH (Keiki Kawai'ae'a and Peter Mills) met with Makani Hou on 12/3/19 to discuss the scope of the MOU and the budget.</li> </ol>		

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		<p>happened and there were no annual reports. How are they to know if the education stipulation is being met without having any details. They asked if Peter Mills of UH is still involved.</p> <p>Cachola and Harp want to know what is in the UHH MOU (posted on Website). They would also like to see the detailed work plan and be able to give comments on it.</p>			
8	<p><b>NOISE STUDY.</b></p> <p>a. The HDOT conducted a noise impact study in March 2014 to determine if the roadway improvements planned has the potential for impacting the activities within the National Park. The study was conducted in accordance with 23 CFR 774. The final report is pending.</p> <p>b. The findings will be made available to consulting parties in this MOA.</p>	<p>Stipulation 8-Distribute noise study report and discuss at future meeting. Take current noise measurements.</p> <p>#8 - Noise Study - Again, NHOs were not consulted - nor did we have the findings available to us.</p> <p>RESO. Get a copy to NHOs and all MOA signatories and put this item on the agenda for discussion at a future meeting.</p> <p><b>Additional input at October 25<sup>th</sup> meeting:</b></p> <p>Cachola and Harp said they would like a follow-up decibel reading to see if noise increased or decreased after the road was widened.</p>	<ol style="list-style-type: none"> <li>1. The plans have been previously posted on the sharesite for download on 4/8/17. A hard copy was available at the 6/26/19 meeting and was also emailed on 8/21/19. We will bring another paper copy to the February 8, 2020 meeting.</li> <li>2. An agenda item has been added for the February 8, 2020 meeting for an open discussion of MOA stipulations.</li> <li>3. The noise study is a computer model predicting the noise level in 20 years. Consultation with NHOs during or after the noise study or follow up noise readings are not a requirement of the MOA.</li> </ol>		

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10B	<p><b>PEDESTRIAN CROSSINGS - UNDERPASS FEABILITY STUDY.</b></p> <p>a. The HDOT shall conduct a feasibility study with the objective of facilitating safe pedestrian access across the Queen Ka'ahumanu Highway at the "Trail to Honokōhau." The study will examine at-grade crossing locations, the installation of a pedestrian tunnel crossing, and the modification of existing culverts for pedestrian-bicycle use. The study shall seek examples and policies regarding use of existing pedestrian tunnels and modified culverts in Hawai'i and other States. Subsurface crossing(s) shall include provisions for a third party organization to take responsibility for maintenance, security and liability for the crossing(s) as has been the policy of HDOT for more than a decade.</p> <p>b. The HDOT shall identify and select a qualified independent third party to conduct the study.</p> <p>c. As part of the study, HDOT shall consult with NPS to identify community organizations who may be invited to participate in the feasibility study. Organizations that may be invited to participate include: signatories to this MOA, NHOs, Peoples Advocacy Trails Hawai'i (PATH), County of Hawai'i, local primary and secondary school officials, universities, community groups, the Royal Order of Kamehameha, and the Association of Hawaiian Civic Clubs.</p> <p>d. As part of the feasibility study the HDOT shall convene a community meeting that has as its objective the development of design guidelines for future Queen Ka'ahumanu Highway expansion projects that includes provisions for trail connectivity and pedestrian crossings under the Queen Ka'ahumanu Highway as well as paralleling the highway.</p> <p>e. The HDOT shall transmit the findings of the feasibility study (inclusive of any documents or written testimony from the community meeting above) to parties participating in the feasibility study prior to the expiration of this MOA.</p>	<p>Stipulation 10B-Provide summary of underpass feasibility study and discuss at future meeting.</p> <p>#10-B Underpass Feasibility Study - After our last meeting on July 26, a copy of this report was "shoved" to an unexpected NHO rep. by an HDOT staff with a snide remark "Here's your study" and he abruptly walked away without a word.. Very rude, disrespectful and unprofessional conduct by the HDOT staff.</p> <p>RESO. Apology warranted from the HDOT staff to NHO. It is a lengthy report. A synopsis/summary should be distributed to all MOA signatories and this item should be on the agenda at a future meeting. Also, before the meeting started on the 26th. this same HDOT staff also made a rude remark to a wife of an NHO rep at the parking lot regarding his expectations for the bad behavior of the NHO rep. at the meeting. RESO - Apology warranted from that HDOT staff to the wife and NHO rep. that he insulted.</p> <p>Additional input from October 25<sup>th</sup> meeting:</p> <p>Cachola would like a synopsis of the study. The CPs wanted an underpass, not an underpass study, so that people can safely walk from Mauka to Makai on the paths of their ancestors. He would like a discussion of the underpass study synopsis at a future meeting.</p>	<p>Again, HDOT and FHWA apologize for any sign of disrespect.</p> <ol style="list-style-type: none"> <li>1. HDOT will provide a summary of the report before the 2/8/20 meeting</li> <li>2. An agenda item has been added for the February 8<sup>th</sup>, 2020 meeting for an open discussion of MOA stipulations.</li> </ol>	

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11	<p><b>INTERPRETIVE SIGN(S).</b></p> <p>The HDOT shall research, design, and produce mutually agreed upon interpretive sign(s) in consultation with NPS and NHOs relating to the history of the trails identified in the Project ROW near the Kaloko-Honokōhau National Historical Park and how the trails relate to the surrounding community. The sign(s) shall be (1) designed to meet NPS sign standards, (2) produced by HDOT, and (3) installed by the NPS within the boundaries of the Kaloko-Honokōhau National Historical Park.</p>	<p>Stipulation 11-Consult with NHOs on interpretive signs.</p> <p>Interpretative Signs - Again the NHOs were not consulted as required in the MOA for the ". . .research, design, of signs and the history of the trails identified in the Project ROW... .and how the trails relate to the surrounding community. The NHOs were not consulted when the HDOT drafted an MOA for the NPS to design, manufacture and install interpretive signs. One of the most important guidance offered by the ACHP to federal agencies is to recognize and acknowledge the expertise of Hawaiians in interpreting their history, cultural beliefs, protocols traditional practices, etc. Some of the NHOs were appointed by the Sec. of Interior to serve on the Na Hoapili Advisory Commission to the Kaloko-Honokohau Nat'l. Historical Park - especially to advise the Park on the planning and conduct of traditional Hawaiians programs and activities at the Park.. So why were the NHO rep. as a signatory for this MOA omitted from any discussion in implementing this MOA?</p> <p>RESO. Stop all the current legal review procedures at the HDOT; distribute all materials, designs, the contest of signs completed by the NPS to NHOs for review and convene a meeting between the NHOs, the NPS and the HDOT for further discussion and consultation. Consider contracting with Hawaiian experts to review and recommend the contest and location for these signs. Again, acknowledging the expertise of Hawaiians to interpret their cultural beliefs and practices.</p> <p><b>Additional information from Oct. 25th meeting:</b></p>	<ol style="list-style-type: none"> <li>1. The NPS requested to design, manufacture and install the interpretive signs with funding from HDOT and FHWA. This information was included in the quarterly reporting. The MOA was legally required to transfer funds to the NPS, otherwise the stipulation remains unchanged.</li> <li>2. NHOs will be consulted on interpretive signs as is required in Stipulation 11 by the NPS.</li> <li>3. The stipulation requires that the signs should be "(3) installed by the NPS within the boundaries of the Kaloko-Honokōhau National Historical Park."</li> </ol>		

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		There was no consultation on the MOA between NPS, FHWA and HDOT. Signs may not be installed within the NPS.		
12	<p><b>AHUPUA'A SIGNS.</b></p> <p>a. The HDOT shall install ahupua'a markers within the project limits following the guidelines of the HDOT's Ahupua'a Marker Program. The markers (ahu or sign on posts) shall be designed and installed in consultation with community groups and NHOs as prescribed by the Ahupua'a Marker Program.</p> <p>b. A notice of the proposed installation shall be published in the West Hawai'i Today newspaper.</p> <p>c. The markers shall be installed as part of the highway widening project.</p>	<p>#12 Ahupua'a Signs - Again the NHOs were not consulted as required in the MOA when the markers were designed and installed.</p> <p>RESO - HDOT staff meet with NHOs to confirm design and installation/placement of markers.</p> <p><b>Additional information from October 25<sup>th</sup> meeting:</b></p> <p>Honokohau 1 sign should read, "Honokohau Nui," and the Honokohau 2 sign should read "Honokohau Iki</p>	<ol style="list-style-type: none"> <li>1. The Ahupua'a boundaries were a part of the consultation done for the terrain model with NHOs.</li> <li>2. As required in the MOU, an advertisement was run in the West Hawai'i Today paper (copy emailed on 8/21/19).</li> <li>3. HDOT has agreed to change Honokohau signs as requested.</li> <li>4. HDOT checked with Aha Moku regarding the maps they use and noted that maps used by Aha Moku only have Honokohauiki. Would Mr. Harp like to use Ahupua'a from this map, or continue with the 2 Ahupua'a, Honokohau Nui and Honokohau Ike?</li> </ol>	
14	<p><b>RELATIONSHIP BUILDING WORKSHOP.</b></p> <p>a. The FHWA and HDOT acknowledge the need to build upon existing and develop new relationships with NHO and communities statewide. The FHWA and HDOT shall commit to sponsoring an initial statewide (one day) relationship building workshop to provide a forum where discussion and knowledge exchange can occur between the FHWA, HDOT, NHOs, concurring parties, and community representatives in a non-project specific context.</p> <p>b. Other agencies may be invited to participate in this forum as deemed appropriate by a consensus decision between FHWA, HDOT, and OHA, advocating on behalf of NHO interests.</p> <p>c. This workshop shall be held within 24 months following the execution of this MOA.</p> <p>d. The subject of the workshop may cover five (5) major areas: (1) identification of issues, challenges or problems that NHOs and HDOT/FHWA have experienced in consultation with each other; (2) a technical training about National Historic Preservation Act Section 106, U.S. Department of Transportation Act Section 4(f), National Environmental Policy Act (NEPA), NHO protocols, relevant Hawaiian history or</p>	<p>Stipulation 14-Add addendum to summary report for relationship building workshops explaining delay in holding workshops</p> <p>Relationship Building Workshop - Not one of the workshops were completed within 24 months of the execution of the MOA</p> <p>RESO - Add an addendum to the Summary Report to explain the delay and its effects in implementing this stipulation</p>	<ol style="list-style-type: none"> <li>1. We acknowledge that this is one of several stipulations not delivered in a timely manner.</li> <li>2. In an effort to become more accountable, Amendment 2 will include a list of all stipulation time requirements that were not met including the relationship building workshop.</li> <li>3. As a result of this project, HDOT and FHWA are holding a series of internal meetings that will result in new policies and procedures to ensure mitigation is delivered in a timely manner.</li> </ol>	

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	<p>cultural practices, or other relevant laws and practices (mutually sharing information); (3) a problem-solving session to share knowledge about best practices that would assist NHOs, HDOT and FHWA to have productive and effective consultation; (4) to identify NHO 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; and (5) explore the development of agreement documents that guide NEPA/NHPA consultation for transportation projects in Hawai'i.</p> <p>e. 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.</p>			
15	<p><b>TERRAIN MODEL.</b></p> <p>a. The HDOT shall commission the construction of a terrain model depicting the lands of Kekaha (between Kailua and Anaehoomalu) in consultation with Makani Hou o Kaloko-Honokōhau. The model shall incorporate topographic relief, traditional place names, historic trails, settlement locations, interpretive signs, and other important landmarks, to be determined.</p> <p>b. The model may be housed at the Kaloko-Honokōhau National Historical Park under the auspices of the Hawai'i Pacific Parks Association.</p> <p>c. The model shall be of such scale that it can be transported to other locations and be used as a teaching tool.</p> <p>d. A second digital model will also be developed and include similar information as the terrain model.</p>	<p>Stipulation 15-There was a failure among RMT staff in consulting with NHOs. Makani Hou envisioned terrain model without contemporary features (i.e. road)</p> <p>#15 Terrain Model - This innovative mitigation measure was initiated by the NHOs and there was a failure among RMToweill staff in consulting with NHOs and a failure with NHOs to consult more effectively with RMTowill in the planning and implementation of this stipulation. It is completed - but not as intended by the NHOs. The NHOs envisioned a terrain model with several "historical layers" of cultural landscapes that could be overlaid on each other to indicate how critical the ancient Ala Kahakai and Mauka/Makai network of trails were to the ahupua'a land and cultural/natural resource management practices among the konohiki of adjoining ahupa'a. The NHOs would have preferred a model of the ancient cultural landscapes as it was in the Kekaha area prior to western contact - unfortunatly the completed terrain model shows the Kekaha landscape with all of its current contemporary features, highways, roadways, streets, and other modern elements that simply eliminates the ancient trail</p>	<ol style="list-style-type: none"> <li>1. In addition to phone and email conversations, three face to face meetings were held to consult on the terrain model that was presented at the June meeting. These meetings were held on February 10, 2017 and February 23 2017 and December 7, 2017. HDOT and their consultant RMTowill made extensive efforts in addition to these three meetings to consult with NHOs on this stipulation.</li> <li>2. During this consultation, there was a request to include the roads to provide orientation to the user. The physical terrain model is complete and cannot be modified</li> <li>3. HDOT is exploring the possibility of modifying the digital terrain model to be a historical landscape without modern features. The is dependent on finding a historical base map.</li> </ol>	



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		<p>networks used and constructed and maintained so carefully by our kupuna. Too bad - Hawaiians would call this misconstrued model a "poho" exercise of miscommunication.</p> <p>RESO - Design and construct another model that would show the ancient landscapes and network of trails. Contract with cultural experts and instructors to develop lesson plans to teach about how these trails related to the political, economic, social framework of the ahupua'a land management practices in pre-contact Kekahi area, and use these cultural instructors to accompany this ancient model and be an integral part of the education outreach efforts developed in stipulation #5B</p> <p><b>Additional input from October 25<sup>th</sup> meeting:</b></p> <p>Cachola and Harp do not believe that the terrain model meets what the CPs wanted. Part of complaint is that this was assigned to the wrong consultant. Harp had attended the initial meeting(s), but didn't agree with RMTowill doing the project, so didn't attend future meetings. In future MOAs, minimum qualifications of consultant doing the work should be included. Lebo suggested another improvement for future MOAs would be to explicitly state at which point reviews happen (i.e. 30%, 60%, 90%) and who does the review. Cachola and Harp went to the first meeting, but felt they were not being listened to. Cachola had wanted a model without the road or modern facilities-a cultural landscape and is upset his vision for the model was not understood at the meeting. He sees the model as a tool for teaching children about their culture before the Queen Kaahumanu highway was there. He would like a new model to be built.</p>			
17	<p><b>POST-REVIEW DISCOVERIES.</b></p> <p>If previously unknown potential historic properties are discovered or unanticipated effects on identified historic properties are found during project construction, the HDOT shall take the actions identified below.</p>	<ul style="list-style-type: none"> <li>Stipulation 17-Post Review Discoveries-Destroyed sites swept under the rug and deadlines not met. Palamanui proposal given priority at June, 2010 meeting vs. NHO proposal.</li> </ul> <p>#17 Post Review Discoveries - The 5 sites that were destroyed and the investigations of why?</p>	<ol style="list-style-type: none"> <li>An Adverse Effect Notification to SHPD and ACHP was sent on August 3, 2017.</li> <li>Consultation meetings about the why, when, who, where were held with CPs on 12/3/16 and 4/7/17 and then a mitigation consultation meeting was held on 5/23/17 and 11/26/19.</li> </ol>		

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	<p>The HDOT will immediately notify the SHPO, and immediately stop work at the site of the find until appropriate final mitigation measures are implemented.</p> <p>A. If the discovery or unanticipated adverse effect is located within the ROW, the HDOT will notify SHPO and the signatories, invited signatories, concurring parties, and consulting NHOs to this MOA of the findings within 72 hours. If the finding is adjacent to the Park boundary, then the HDOT will also notify the NPS at the same time that the SHPO is notified. All signatories, invited signatories and concurring parties to this MOA shall designate a "point of contact" and contact information for the representative who shall be notified pursuant to this provision or the inadvertent discovery of human skeletal remains as described at 17(C) below.</p> <p>B. The FHWA, the SHPO, and the signatories, invited signatories, concurring parties, and consulting NHOs to this MOA shall consult on the potential significance of the discovered property, National Register of Historic Places eligibility and any proposed treatment. Comments on the significance, of the discovered property, National Register of Historic Places eligibility and any proposed treatment or a request for additional time to provide comments shall be provided by the SHPO, signatories, invited signatories, and concurring parties to the FHWA within 48 hours of any notification as described in 17(A) in order to be considered. HDOT to ensure that any recommended treatment measures are implemented; and HDOT shall provide a final report to the SHPO and all signatories, invited signatories, and concurring parties on these actions when they are completed.</p> <p>C. In the event human skeletal remains are inadvertently discovered during project construction, the requirements of Chapter §6E-43.6, HRS, and Chapter 13-300, HAR, shall determine appropriate treatment.</p> <p>In addition to the parties who are notified of inadvertent discoveries pursuant to Chapter 13-300-40(b), HAR, and (c), the FHWA shall ensure all signatories, invited signatories and concurring parties to this MOA are notified of the inadvertent discovery and afforded a reasonable opportunity to comment on appropriate treatment. Comments shall be directed to the SHPD.</p>	<p>when? who? where? have apparently been "swept under the rug" HDOT wants to move forward regardless of whoever should bear the consequences for the damages.at these important sites and major ancient trails. NHOs submitted mitigation measures over 2-years ago - but no follow-up by HDOT until recently when a "great awakening" occurred at Palamanui which promoted immediate attention and a prominent presence at our last minute.- in spite of no action taken to discuss the mitigation proposal submitted by the NHOs two years ago. HDOT seems to be inviting and encouraging a non-consulting entity to submit a proposal for mitigation - and all we have from them so far is their oral presentation at our last meeting.- with no time left for the NHOs to present their proposal. And the HDOT has asked the NHOs twice for their written updates for distribution - but nothing submitted in writing from the Palamanui group. It seems that the HDOT is demanding a written update from the NHOs by- an arbitrary deadline of Aug. 8 - while the Palamanui group has not submitted any written request at all. What's up?? HDOT is distributing the criteria for selecting a mitigation proposal and appears to be the entity to make the selection - but that is not true, the HDOT does not select the mitigation for the destruction at the five sites.. So what's up?? Obviously, the HDOT has a preferred preference for the Palamanui un-written proposal and appears to have a bias against the NHOa proposal which has not been fully presented and discussed since it was submitted two years ago. What's up?</p> <p>RESO - All deadlines established must be explained and justified and not be arbitrary. Have a 2-day meeting in Sept. or Oct. to review, discuss all the complaints and suggested resolutions of the NHOs and allow the NHOs the same amount of time as Palamanui had to present their updated proposal. FHWA should clarify and confirm the criteria for reviewing mitigation proposals and confirm that the FHWA, the SHOPO, and the ACHP are the entities that select the mitigation - not the HDOT.. FHWA should confirm the process for allowing non-signatory party(s) to have a preference over signatory folks in submitting mitigation proposals. HDOT should not be encouraging anyone to proceed with the</p>	<ol style="list-style-type: none"> <li>3. Per Makani Hou request, at the 11/26/19 meeting, HDOT presented details of the damaged sites and the timeline.</li> <li>4. Amendment 2 to the MOA will include the mitigation package.</li> <li>5. Amendment 2 will acknowledge all stipulations that did not meet schedule requirements of the MOA including the notification requirements of post-review discoveries.</li> </ol>	

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		restoration or investigation of any historic site and not be in compliance with the standards of the Sec. of Interior for undertaking any restoration work on historic sites. Confirm with SHPD that the so-called Palamanui Trail is indeed a registered historic site.			
18	<p><b>DISPUTE RESOLUTION.</b></p> <p>Should any signatory, invited signatory, or concurring party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, FHWA shall consult with such party to resolve the objection. If FHWA determines that such objection cannot be resolved, FHWA will:</p> <ul style="list-style-type: none"> <li>a. Forward all documentation relevant to the dispute, including the FHWA's proposed resolution, to the ACHP. The ACHP shall provide 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, FHWA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. The FHWA will then proceed according to its final decision.</li> <li>b. 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 and concurring parties to the MOA, and provide them and the ACHP with a copy of such written response.</li> <li>c. Be responsible to carry out all other actions, subject to the terms of this MOA that are not the subject of the dispute.</li> </ul>		If these responses do not resolve Makani Hou's objection, all documentation relative to the Stipulations still in dispute will be forwarded to ACHP.		

No.	Stipulation	Makani Hou Objection	FHWA/HDOT Response	Resolved?
21	<p><b>AMENDMENTS.</b></p> <p>Any signatory, invited signatory, or concurring party to this MOA may request that it be amended, whereupon the parties shall consult in accordance with 36 CFR Part 800 to consider such amendment. The authority to execute any final amendments shall be with the signatories of this MOA. The amendment will be effective on the last date a copy of it is signed by all of the signatories. If the signatories cannot agree to appropriate terms to amend the MOA, any signatory may terminate consultation on the proposed amendment in accordance with Stipulation 22 below.</p> <p>To address minor changes in the projects or the treatment of historic properties affected by the projects, FHWA may propose revisions to the APMP, DRPP, AMP, BTP or Cultural Monitoring Scope of work to the other parties to this MOA.</p> <p>Upon the written concurrence of the signatories and invited signatories, FHWA may revise the plans(s) to incorporate the agreed upon changes without executing a formal amendment to this MOA</p>	<p>Stipulation 21-Request early notification and invitation to NHOs in considering amendments.</p> <p>#21 Amendments - Please confirm whether or not this MOA will be amended, why? when? etc. and let us all consult in accordance with 36 CFR Part 800 to consider such amendment. Early notification and invitation to the NHOs in considering the amendments will be appreciated.</p> <p><b>Additional input from October 25<sup>th</sup> meeting:</b></p> <p>Cachola would like a hard copy of the Amendments.</p>	<p>1. Consultation on Amendments is ongoing. Next consultation meeting is scheduled for February 8, 2020.</p>	