**Queen Ka‘ahumanu Highway Widening Project Agenda**

106 Consultation Meeting

May 29, 2020

1:00 pm to 4:00 pm

June 5, 2020

**Meeting begins:**

**Pule**

Kekoa gave a pule to start the meeting.

**Attendees**

Richelle Takara (FHWA)

Meesa Otani (FHWA)

Kaha’a Rezantes (FHWA) (by Phone)

Lisa Powell (FHWA)

Marshall Ando (HDOT) (by Phone)

Harry Takiue (HDOT)

George Abcede (HDOT)

Julann Sonomura (HDOT)

Pua Aiu (HDOT)

Mandy Ranslow (ACHP)

David Clarke (FHWA)

Jackson Bauer (DLNR-Na Ala Hele, invited by Ala Kahakai)

Tanya Lizama (Ala Kahakai)

Rick Gmirkin (Ala Kahakai)

Lauren Morawaski (OHA)

Kiersten Faulkner (Historic Hawai‘i Foundation)

Fred Cachola (MHOKHK) (by Phone)

Paka Harp (MHOKHK) (by Phone)

Kekoa Nazara (Kona Hawaiian Civic Club) (by Phone)

Ashley Obrey (Native Hawaiian Legal Corporation)

Jeff Zimpfer (NPS) (by Phone)

Malia Lane-Kamahele (NPS) (by Phone)

Susan Lebo (SHPD)

Faith Rex (SMS)

Anna Pacheco (SMS)

Marshall announces to the group that he is retiring and that his last day is today. He introduces George Abcede who will be the acting Highways Administrator in his place. George is the currently the O‘ahu District Engineer. Marshall thanks everyone for their time and effort on completing this project. He appreciates that everyone has provided honest input and participated in a positive way. He encourages everyone to continue working together to move the process forward.

**Review protocols for the meeting**

Faith reviewed protocols for the meeting.

**Update on After Action Analysis**

David Clarke introduced himself and explained his background and experience with 106 and work with consulting parties. He is the Federal Preservation Officer with FHWA office. He was approached by the Hawai‘i division office to assist with this project and has been on many of the Consulting Party meetings via phone as a non-biased participant. His focus is oversight of compliance with section 106. The After-Action Analysis has two goals: to assess the compliance with Section 106 and to identify processes and practices that should be improved for better execution on future projects. The process will include observations and recommendations. There will be objectives to improve processes for compliance, internal and external communication with consulting parties and Native Hawaiian organizations. David will be the team leader. There will be a published report produced and a webinar presentation. David announced Rob Aires as the project manager, who had lots of experience in this work. Additional team member will be identified and finalized moving forward. This will not only be a what, where, why report, but will be intended as a tool to improve. The Volpe Group will be assisting with technology and logistics for interviews and data requests. The timing is intended to coincide with Amendment 2. On target for October or November. There will be a formal presentation and a product published with the results.

Fred said he was very pleased that they have done AAA reports before. On the other hand, he was disappointed that the administrative procedures and selection process were all done in house and the consulting parties were not included in these decisions. It seemed it was being implemented and graded by FHWA only.

David said additional team members may come on, he has only established and decided on his internal team. ACHP will be a team member. There may be additional folks from SHPD and other organizations, such as those on the call. The processes for the report are fairly standard processes, data collection and interviews, etc.

Fred said they would like to make some recommendations when they add other folks. Paka recommended Ashley Obrey and Dr. Kehaunani Abad as well.

David said yes. He would like recommendations by email for who should be on the team.

Fred wanted to clarify that there will be time to review the report before it is published.

David said there will be time built in for review and feedback from the project team.

Faith requested if there will be a timeline.

David said there will be monthly reports to him and while everyone will not be involved the entire time there will be intermittent check-ins and other requests/questions.

Lisa said everyone should send team member suggestions to her.

Faith asked if there were any other questions.

Mandy R. thanked everyone for allowing them to participate in the AAA.

Paka said he lost some of the call and missed some of what David reported. He heard some of the intent on what the after-action analysis was and he recommended a prior action analysis in the future to prevent this from happening again.

David had to drop of the call and commented “Thank you everyone, I have to drop off the meeting. Have a great weekend and please email Lisa Powell with any recommendations for Team members for the After the Action Analysis.

Lisa commented “Yes, lisa.powell@dot.gov if you don't already have my email.”

**Review of the Stipulation Status & Close-out Memos**

Faith introduced the next section of the meeting, review of stipulations.

Fred asked why certain stipulations are not included in the conversation, like 5b. Faith said they were prioritized for discussion based on the prior complaints from Makani Hou last year. Paka said the outreach and education stipulation would take over an hour to discuss alone. Fred said it is such an important stipulation and he felt there was misunderstanding on the fact that these were the priorities. Fred insisted stipulation 5b must be discussed and cannot be overlooked.

**Stipulation 15: Terrain Model**

Faith began by ensuring everyone would have a chance to review the digital terrain at another meeting to be set up by Harry and that they would just review for the first time today. Harry seconded that. This could also be a live demonstration in Harry’s office if COVID guidelines allow a meeting.

Paka said the terrain model would not work for his computer, that his requires Google Earth Pro. Pua said they would send the information on how to connect to it via Google Earth Pro. Fred said he wanted an interactive map, not a static model.

[Pua shared her screen and demonstrated how to load the digital terrain model into Google Earth.] Pua said go to Google Earth on your chrome browser. She demonstrated how to import the KMZ file into Google Earth. Pua began to walk through some of the features on the map. She showed how to remove modern elements. She also demonstrated how to add elements to the map. By following new feature and adding a placemark.

Paka said while it may be difficult for HDOT, he wanted a big screen TV version for public consumption.

Fred said he wanted to know how this model can be shared with Native Hawaiians. Fred said he thought there would be other opportunities to share this. There would be others that want to see the historical landscapes before they were destroyed by the modern world. He said it is necessary for Native Hawaiians to reconnect with a cultural and historic landscape that has disappeared. That is why they asked for this stipulation. He felt this could be an educational tool to see the effects on the landscape and how effectively native Hawaiian ancestors managed the land. Fred is not comfortable saying this is complete. In the minds of those who initiated this stipulation, he said the stipulation is not complete for how it was intended to be used.

Faith asked Pua to continue.

Pua described the historic trails portion of the map. Historic maps from which the trails are drawn can be accessed via the same program. She showed the territory map and that you can see many elements like boat landing, park, beaches, trails. Clicking on elements shows additional information on places.

Fred said he liked that feature and he wants to make sure they could add footnotes and that place names are very important to the Hawaiian culture and they would want to be able to add information on the origin and details of place names.

Pua said yes, it is very editable.

Kiersten asked if this is public and if it can be shared.

Kiersten said this would be very helpful. She also asked for a step-by-step instructions on how to load and use the map.

Fred said he would appreciate if before it is made public, they are given the opportunity to review and edit it for accuracy.

Susan asked if it was possible to add in historical photos for sites.

Pua said yes but she has to check on the process.

Paka reminded everyone that Makani Hou is the only group required to be consulted. Paka said he originally requested for this to be not on Google Earth so folks could use it offline and now it is online.

Faith asked for any other questions and moved on.

Pua explained how the closeout memos work. Pua stated it is HDOT’s position that they are complete with this stipulation.

Paka said the physical terrain model lacks interactive features and it was rejected. He said they do not agree with the position that this stipulation is complete. Makani Hou maintained the position that none of the stipulations have been completed.

Fred said they say from HDOT’s position it is complete but those who requested these items do not get an opinion on whether or not it is complete. He wanted to know how or when or who makes these determinations. He felt whoever initiates the stipulation should be involved with the decision of completion. There needs to be a more appropriate process.

Mandy R. commented “To answer Fred & Paka's question about stipulation completion, the Federal Agency determines when a mitigation stipulation is complete. This should be done in consultation with all consulting parties. A consulting party can raise an objection and seek Council comment.”

Paka said the development of the MOA was rushed. In the rush there was a failure to include specifics on the mitigations. That failure has caused a lot of problems and he wanted that taken into account.

Kiersten asked where the physical model will reside and will it be accessible to the public?

Pua said they were trying to put it at Palamanui but they won’t host it without funding so HDOT is open to suggestions.

Kiersten asked if they had explored the visitor center at the national park.

Lauren commented “At one point the Airport was mentioned to house the terrain model.”

Pua said the visitor center and airport both declined.

The Kona Civic Center was suggested by Kiersten. She also suggested educational facilities, even high schools. Hotels are the last option. Anything is better than it not being used.

Fred said this further confirms the stipulation is not complete because it is not even public.

Paka was fine with any of the locations but he felt the model is essentially useless and he reminds us that he proposes large screen version of the digital model for the public.

Faith asked if there was any other comments, and hearing there were none, moved on.

**Stipulation 10B: Pedestrian Crossings-Underpass Feasibility Study**.

Pua began discussion. Pua read through the stipulation 10B.. After reading Pua stated that again, HDOT has taken the position this is complete.

Paka said that due to the rush during the MOA, they were unable to get a crossing, only a study. Many of the findings side with Makani Hou. The main issue was liability transfer from the state to a third party and Paka has been waiting to hear back from the attorney general on some of these issues and he hasn’t heard back yet.

Faith asked for additional comments.

Paka had an additional comment - just letting folks know he has been working on protective fencing on some of those connected areas.

Harry said the request was not sent to the AG because the AG cannot decide on third party questions.

Fred asked if the overpasses in downtown Honolulu have liability transferred. He said that again, this stipulation is not complete.

Paka said the original request was rejected because of the inability to transfer liability, but that is not an issue. He hoped the discussion would be continued to develop this. While the study was completed a while ago, he felt the stipulation cannot be closed until they have extensive discussion on the study.

Lisa asked if they would like to discuss any specific part of the study to discuss it now.

Fred asked if Lisa was implying that this is there last chance to discuss it.

Lisa said yes. This meeting is intended to be the meeting that they discuss the study.

Paka said there is no time. Asked how many pages was the study and Lisa thought the study was around 30 pages and if appendices were included, it was over 100 pages. Paka asked to set up a specific time to discuss the study. Lisa said this is the third time this has been added to a meeting agenda per Makani Hou’s objection. Are there any comments from any of the CPs on the content of the study? There were no comments.

Fred said the study lacked the legal requirements it should have included.

Kekoa asked someone to outline the legal requirements for Native Hawaiians Uncle Fred is referring to. Fred said it has to do with the fact that they never got a legal opinion from the AG as to whether or not liability transfer is necessary or possible.

Kekoa said if they cannot find a third party does that mean it is not going to happen.

Paka said it is Makani Hou’s position that HDOT should maintain liability.

Kekoa asked if the liability is a cost issue.

Paka said it is a long-term liability and no third party is willing because they are not the ones constructing it.

Kekoa asked the same question as to whether the other underpasses/over passes are insured by third parties. Harry and Pua said the underpasses are and they were built by a third party.

Fred reiterated that without the legal component the study is incomplete.

Jackson was confused why the third-party liability is such a concern.

Faith asked if there was any other comments, and hearing there were none, moved on.

**Stipulation 8: Noise study**

Pua read out the MOA Stipulation 8. She summarized the report is done and was made available to the consulting parties. HDOT maintains their position that the stipulation is complete.

Paka said the noise study is worthless because it was only completed before the project. He said it needs to be done again to address if there was a change.

Kiersten agreed that there should have been a follow up to the baseline.

Lisa said the noise study uses a model that projects future traffic and assesses potential impacts. They do not return to assess the impacts.

Kiersten asked how they know if their models are correct.

Lisa said they are many different scenarios run and the criteria used are the national standards. They can ask the experts the details, but this is how it is conducted. To project and predict impacts.

Fred agreed this needs to be completed again after the widening. Fred wanted to know if NPS was happy with the study. Fred also said aircraft should be considered.

Jeff thought NPS was happy with the study, but he will double check.

Lisa said aircraft isn’t considered because they can’t control the aircraft noise. It is outside the project’s control. The study looks at traffic noise.

Kekoa asked if the study assumed there will be more sound.

Lisa said it only looks at traffic noise projections for the next 20 years. Projected increases were less than a decibel and did not require mitigation.

Paka wanted to know if the shifted location and additional lanes was considered in the study. Is there any proof that models like this are accurate?

Meesa commented “If anyone would like more information on the Traffic Noise Model, please visit this website: <https://www.fhwa.dot.gov/environment/noise/traffic_noise_model/>”

Faith asked if there was anything other comments, and hearing there were none, moved on.

**Stipulation 4: Archaeological Reports**

Pua read out the Stipulation 4. Paka said Makani Hou has assembled comment on the February 27th 2020 version of the report. Paka reviewed their comments on the document. Paka does not believe any Native Hawaiian organizations were consulted in the development of 4F. Also, only a couple of properties were considered as 4F properties. Also, some of the buffer breach areas are being ignored. In regard to monitoring, the information on steppingstones was never included in reporting before so he was concerned of the accuracy. Regarding areas that were destroyed, some are mentioned, and some are not and Paka felt this report needed to be more thorough. Some of the larger areas of Mamalahoa trail weren’t even mentioned. Paka felt the report should be fuller and more factual. He also wants to know who gave permission to complete the archaeological report

Faith asked if there was anything other comments, and hearing there were none, moved on.

**Stipulation 12: Ahupua’a Signs**

Pua read the Ahupua’a signs MOA Stipulation 12.

Paka asked if there is any language on consulting with Makani Hou.

Pua said yes, NHOs.

Fred said they should specifically be consulted to avoid issues.

Paka apologized for not noticing that Ooma1 and Ooma 2 are also incorrect. Paka said there needs to be additional research into the names rather than labeling them 1 and 2. He said they are inaccurate or incomplete and need more historical information. This will avoid late replacement. He also wants to confirm that all the signs are located on the boundaries.

Pua said their archeologist went out to find the ahupua‘a boundaries and the signs are located within the ahupua‘a boundaries. She asked what additional information they needed to confirm.

Paka requested Dr. Abad to go out to confirm. He does not trust the state archeologist after seeing all the mistakes, such as the undercount in identifying sites.

Fred said they were not even consulted with on this.

Fred said the Ahupua’a sign stipulation is not complete until they confirm review of the titles and locations.

Paka said that Kumu Pono Associates has very old maps that may be able to confirm the correct names. Fred suggested HDOT look for other contacts and request additional consulting.

Fred said getting this right is extremely important as this is where Kamehameha the Third was raised.

Marshall said he had to leave the call at 3:25pm. He said he appreciates everyone’s comments and looks forward to continuing moving forward.

Faith asked if there was anything other comments, and hearing there were none, moved on.

**Stipulation 14: Relationship Building Workshop**

Pua read the relationship building workshop stipulation 14. Pua also reviewed what was completed. She acknowledged it was late, but it was completed.

Fred said late is an understatement. The objection filed was that it was not done. Paka said from what he experienced, the class in Hilo was more of an introduction into historic properties preservation laws rather than an actual relationship building effort between local Native Hawaiians and groups and the government. He thought it was a lost opportunity.

Pua said that was a different meeting. The relationship building workshop was held in Kona at the West Hawaii Civic Center. The meeting in Hilo was something different.

Paka said if that is the case then was held without his knowledge. However, Pua pulled up the minutes and showed them on the screen. She noted that Paka did not attend. She thought he may have been working. However, Fred attended on behalf of Makani Hou.

Paka requested a copy of the minutes from that meeting be sent to him via email.

Faith asked if there were any other comments, and hearing there were none, moved on

Kekoa had to sign off at 3:39 pm and said aloha.

Faith said to move on to next steps.

**Next steps**

Lisa reviewed next steps.

* CP comments welcome by email through June 17, 2020. HDOT will finalize Close Out Memos and submit to FHWA
* Per Stipulation 18, if Makani Hou objections are still unresolved, FHWA will forward FHWA’s proposed resolution and all documentation relevant to the dispute to ACHP.
* June 2020 – FHWA/HDOT to distribute revised Amendment 2 including revised mitigation for the breached sites.
* June or July 2020 – Meeting with Consulting Parties to consult on Amendment 2

Fred said that in June or July for the last meeting he wants a face to face discussion. If necessary, just to get a very large room to maintain social distance. He said this is one of the worst ways to consult with native Hawaiians.

Paka said he agreed and recommended that they stop the electronic meetings because not everyone has access and technology. He said when they are willing to convene a physical meeting they can continue.

Lisa Powell and Susan Lebo said their organizations have banned travel of any kind through the end of the year. Paka suggested meeting at the Kona Civic Center because the room is large so people have space to spread out and there is a TV screen for people to connect to if they can’t make it to the meeting.

Fred said that Makani Hou believes their objections are unresolved so they will have to forward them to the ACHP. Fred will be forwarding any comments to Lisa to be included in the submittal to ACHP.

Fred said Makani Hou may have to pursue legal action. They hope HDOT and FHWA will sincerely consider all comments received today from consulting parties regarding the incompletion of stipulations.

Faith asked Fred if he could please do the pule to close the meeting.

**Pule**

Fred gave a pule to bring the meeting to an end.

**Meeting concluded: 3:53 pm.**