

Former Oahu Railway & Land Company Right-of-Way: Section 106 Procedural Programmatic Agreement

Welcome and Aloha

Department of Transportation
Highways Division

January 18, 2017



Presentation Agenda

- History and Background
- Section 106 of the National Historic Preservation Act
- Procedural Programmatic Agreement (PA)
- PA Development Process
- Questions and Answers

Section 106 Procedural PA Coverage Map



Background: Former Oahu Railway & Land Company Right-of-Way

- **August 1878** – “An Act to Promote the Construction of Railroads”
- **November 16, 1889** – Reaching as far as Aiea, the line was formally opened on King Kalakaua’s birthday
- **July 4, 1898** - OR&L constructed further west, reaching to Waianae; during this time it served over 1 million passengers per year
- **1940 – 1945** –World War II – the OR&L carried supplies and munitions, troops and defense workers
- **December 1947** – Last passenger train runs
- **December 1975** – Former Oahu Railway & Land Company Right-of-Way, from Fort Weaver Road to Lualualei, is added to the National Register of Historic Places



Photo Courtesy of Hawaii Railway Society – Bill Blewett Photography, Hawaiian Railway Society Collection

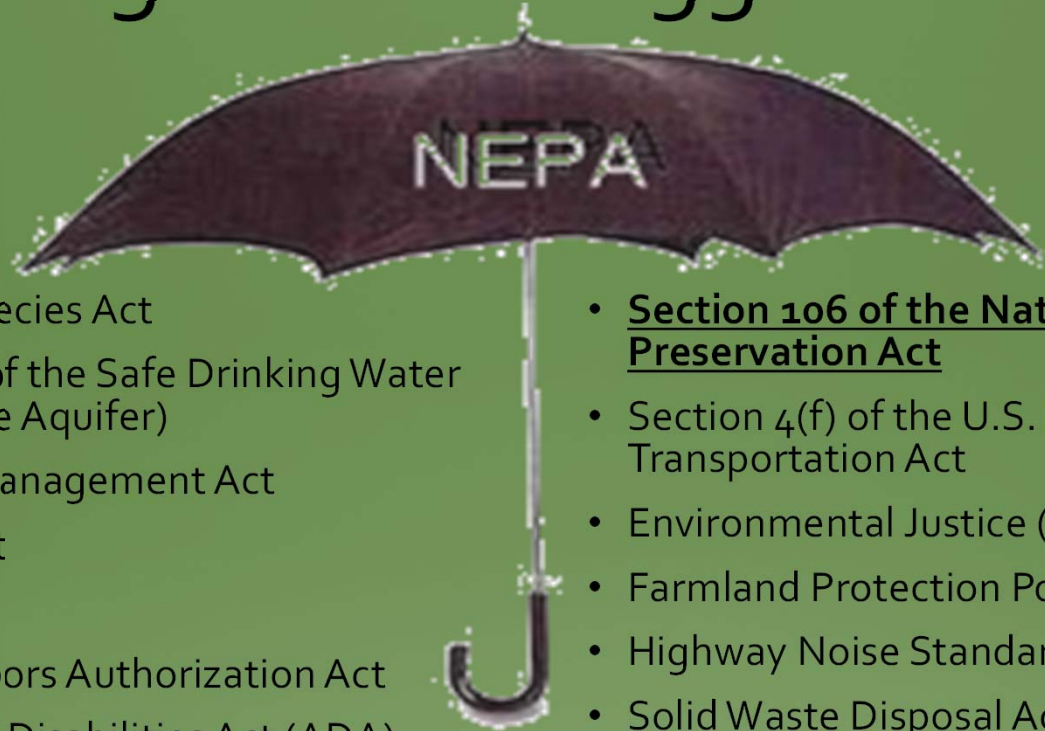
HDOT and OR&L ROW Ownership

- June 5, 1980 ownership of the OR&L ROW transferred from the federal government to HDOT
- Conditions to HDOT's ownership of the ROW :

Item #4 of the Deed states that "all licenses, permits or easements authorizing the use or occupancy of the 40' railroad right-of-way will be issued only subsequent to the written approval of the Hawaii State Historic Preservation Officer and the written authorization of the Hawaii Division Administration, Federal Highway Administration."



Federal Regulations Triggered by Deed



- Endangered Species Act
- Section 1424e of the Safe Drinking Water Act (Sole Source Aquifer)
- Coastal Zone Management Act
- Clean Water Act
- Clean Air Act
- Rivers and Harbors Authorization Act
- Americans with Disabilities Act (ADA)

- Section 106 of the National Historic Preservation Act
- Section 4(f) of the U.S. Department of Transportation Act
- Environmental Justice (EO 12898)
- Farmland Protection Policy Act
- Highway Noise Standards
- Solid Waste Disposal Act
- And more.....

Section 106 of the National Historic Preservation Act of 1966, as amended

Four Basic Steps

(36 CFR 800.3-800.6):

- Initiate the process – invite parties to consult
- Identify and evaluate historic properties
- Assess Effects – no adverse effects or adverse effect
- Resolve Adverse Effects – prepare MOA or PA

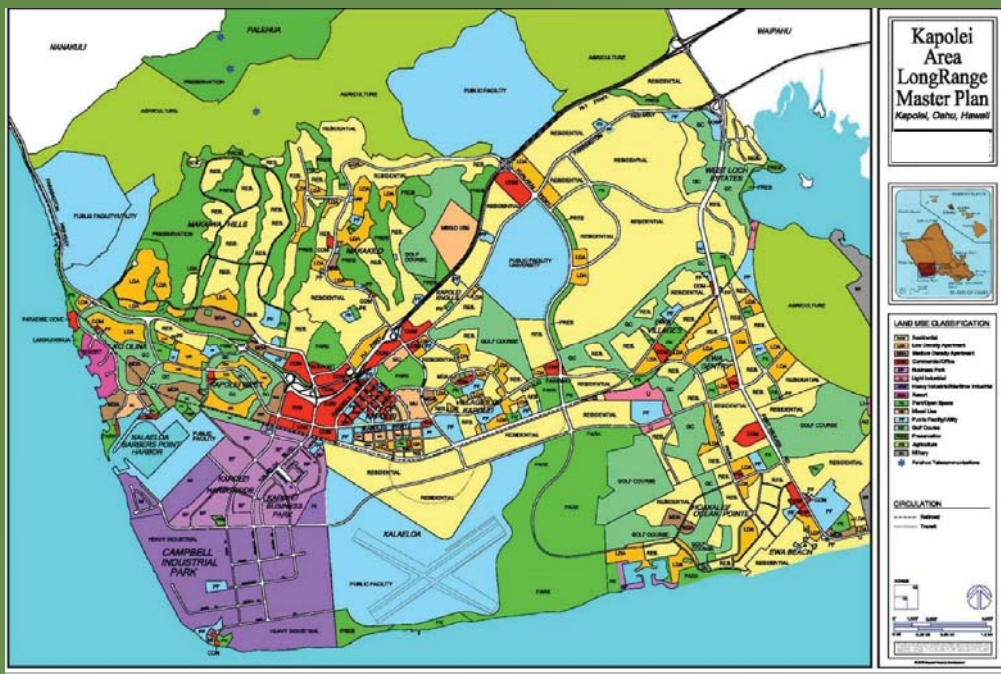


What is a “Procedural Programmatic Agreement”?

- Agreement Document between the Federal Highway Administration and the State Historic Preservation Division
- Tool used when agencies anticipate similar and/or recurring actions that affect the same resource
- *Procedural* PA defines process



Why a Section 106 Procedural PA?



Process to Develop the Section 106 Procedural PA

1. Coordinate and Develop
Section 106 Procedural
Concept

- FHWA, HDOT and SHPD reach agreement on concept (PA limits, Roles and Responsibilities, Scope, General Process)
- Develop approach to seek public input.

2. Identify Stakeholders to
Participate

- Invite potentially affected stakeholders of all interests to participate.
- Identify stakeholder's request for level of participation.

3. Collect stakeholder Input

- Meet with stakeholders that identify themselves for participation.

4. Develop PA

- Agencies evaluate input.
- Revise PA concept.
- Develop PA document further.

5. Circulate PA for Review

- PA will be circulated to stakeholders that have requested to be included in review.

6. Finalize and Execute PA

- Agencies will consider stakeholder comments.
- Agencies will revise and agree to language of final PA.
- Final PA will be executed and distributed amongst signatories.

Proposed Section 106 Procedural PA Concept



Undertakings that are Known to Have No Effect on the Former OR&L ROW

- Procedural PA eliminates need for SHPD review or consultation.
- Activities documented by HDOT and reviewed by SHPD on an annual basis.
- Intended for activities such as routine maintenance performed according to Secretary of Interior Standards for Rehabilitation.



Undertakings with Limited or Moderate Potential Effect on the Former OR&L ROW.

- Procedural PA will identify the types of undertakings and Section 106 requirements for undertakings that fit within this tier.
- Requirements would generally be less than the standard Section 106 requirements with a limited form of consultation.
- Possible activities in this tier might be a new traffic signal or utility crossing that does not physically touch the rails or ties, but places new minor structures within the ROW.



Undertakings with High or Unknown Potential Effect on the Former OR&L ROW.

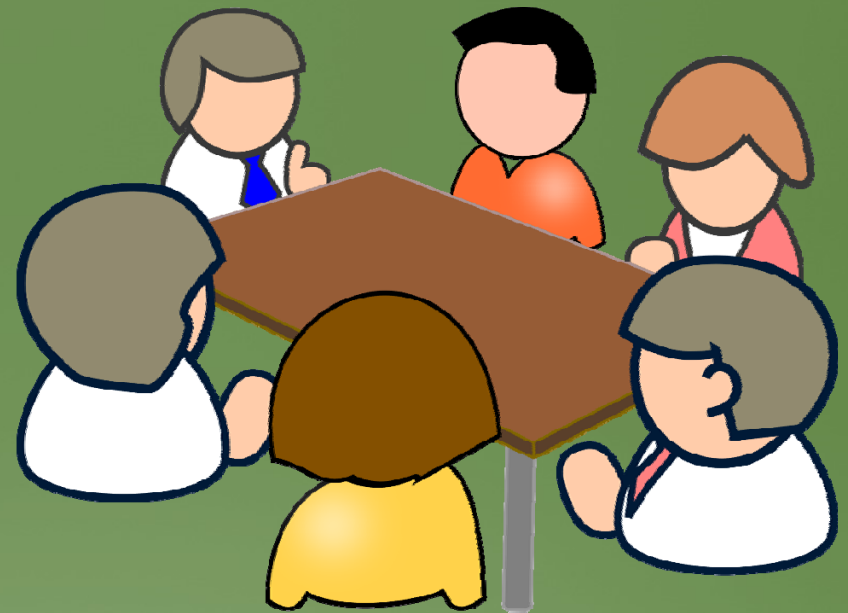
- Standard Section 106 review requirements would be followed.
- PA would provide some streamlining by facilitating identification of consulting parties and providing information on the former OR&L's ROW eligibility for the National Register of Historic Places.
- Intended for new roadway or driveway crossings.

How Will the Section 106 Procedural PA Affect Landowners?

- No changes to designated land uses, zoning, or property ownership
- The Section 106 Procedural PA will serve as a guidance tool for future undertakings within the 40-foot-wide ROW owned by HDOT
- Future undertakings would be required to follow the applicable rules and regulations, which could include:
 - Performing environmental studies
 - Obtaining permits
 - Consulting with interested and affected parties, among other efforts, as required by law

Next Steps

- Small group meetings
- Additional public informational updates, as appropriate
- Distribution of the Draft Section 106 Procedural PA and associated review / comment period



How To Stay Informed and Involved

- Submit a postcard
 - Request notification of meetings
 - Request a copy of the Draft Section 106 Procedural PA
 - Request to be listed as a consulting party
 - Historic Properties
 - Cultural Practices
 - Archaeological Resources
- Submit a comment form
- The Section 106 Procedural PA e-mail will remain active until the document is finalized: FormerOR&L.ROW@Hawaii.gov

Questions?

Mahalo!

Former OR&L ROW Section 106 Procedural PA Contact Information

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