

May 19, 2011

Via Federal Express

Mr. Leslie Rogers
Regional Administrator, Region IX
Federal Transit Administration
201 Mission St., Suite 1600
San Francisco, CA 94105

Mr. Wayne Yoshioka
Director
Department of Transportation Services
City and County of Honolulu
650 S. King St., 3rd Floor
Honolulu, HI 96813

Re: *Honolulutraffic.com v. Federal Transit Administration*
United States District Court for the District of Hawaii Case No. 11-00307 AWT

Dear Messrs. Rogers and Yoshioka:

I am writing, on behalf of the Plaintiffs in the above-cited case,¹ to share with you some concerns about ongoing construction by the City and County of Honolulu ("City") of the "Honolulu High-Capacity Transit Corridor Project" (the "Project"), a 20-mile elevated heavy rail line.

On May 12, Plaintiffs filed a lawsuit challenging the City's and FTA's approval of the Project. I understand that both of you have been served with a summons to appear in the lawsuit and a copy of Plaintiffs' Complaint.

Plaintiffs' Complaint details the ways in which the City and the Federal Transit Administration ("FTA") violated the National Environmental Policy Act ("NEPA"), section 4(f) of the Department of Transportation Act ("Section 4(f)"), and the National Historic Preservation Act (the "NHPA"), including, among other things, (1) their failure to consider reasonable alternatives to the Project, (2) their approval of the Project despite the existence of feasible, prudent alternatives which would have had fewer impacts on parks and historic resources, and (3) their admitted failure to complete an analysis of the Project's potential impacts on Native Hawaiian burial sites.

¹ Plaintiffs are a broad coalition of not-for-profit environmental, cultural, and business groups, as well as a number of distinguished individuals. They include Honolulutraffic.com, a transportation advocacy group; former Governor of Hawaii Benjamin Cayetano; the Honorable Walter Meheula Heen, a retired United States District Judge, United States Attorney, and Trustee of the Office of Hawaiian Affairs; Hawaii's Thousand Friends, a non-profit organization dedicated to preserving environmental and cultural resources; the Small Business Hawaii Entrepreneurial Education Foundation, a non-profit business group; Randall Roth, professor of law at the University of Hawaii and a well-known author and speaker on the subject of local government; Cliff Slater, the Chair of Honolulutraffic.com; and Dr. Michael Uechi.

In light of the fact that neither the City nor FTA has yet complied with NEPA, Section 4(f), or the NHPA, we strongly urge you to make sure that the City does not undertake any construction activities that could have a significant, adverse environmental impact or limit the availability of reasonable alternatives before the lawsuit is resolved. See 40 C.F.R. § 1506.1(a); *Alliance for the Wild Rockies v. Cottrell*, 622 F.3d 1045 (9th Cir. 2010).

Sincerely,

SNR Denton US LLP



By:

Nicholas C. Yost

cc: Florence Nakakuni, United States Attorney
(via U.S. Mail) Carrie K.S. Okinaga, Corporation Counsel, City and County of Hawaii
Peter Rogoff, Administrator, Federal Transit Administration
Robert Thornton, Nossaman, LLP
Matthew G. Adams, SNR Denton LLP
Michael J. Green, Esq.

bcc: Cliff Slater
Benjamin J. Cayetano