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FROM: Ruth Aloua

RE: Comments to “PROGRAMMATIC AGREEMENT AMONG THE U.S. ARMY GARRISON, PŌHAKULOA, U.S. ARMY GARRISON, HAWAII, THE HAWAII STATE HISTORIC PRESERVATION OFFICER, AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION REGARDING ROUTINE MILITARY TRAINING ACTIONS AND RELATED ACTIVITIES AT UNITED STATES ARMY INSTALLATIONS ON THE ISLAND OF HAWAI‘I, HAWAI‘I.”

To Whom It May Concern,

The Programmatic Agreement (hereafter referred to as “PA”) provided in August 2018 governs the implementation of multiple undertakings (e.g., Physical Training, Maneuver Training, Reconnaissance Training, Assembly Area Operations, Force-on-Force Training, Aviation Training, Deployment Training, Landing Zone and Drop Zone Training, Live-Fire Training) for routine military training and related range management activities associated with the USAG-Pōhakuoa mission and RDH operations. If approved, the PA covers training conducted by the Hawai‘i Army National Guard, U.S. Army Reserves, U.S. Marine Corps, U.S. Air Force, U.S. Navy, Special Operations forces, Other federal agencies, law enforcement, Firefighters, invited foreign allies. Yearly, 15,000 to 20,000 personnel use the 133,000 acres training area. The level, intensity and frequency of these trainings that define “routine” is missing. This information is crucial in understanding what the scale of this legal agreement entails.

Overall, the PA is inadequate and further consultation is necessary. It is the responsibility of the agency official - not the public or consultants - to ensure that the section 106 process provides a reasonable opportunity to identify concerns about historic properties, advisement on the identification and evaluation of historic properties, including those of traditional and cultural importance, articulate views on undertaking effect's and participate in resolution of adverse effects. There are major issues with each of topics and questions regarding if, how and to what capacity agency responsibilities have been fulfilled.

Failure to Fulfill Purpose of Section 106 (§ 800.1.a, § 800.4.b.1)

The goal of section 106 consultation is to "*identify historic properties potentially affected by the undertaking, assess its effects and seek ways to avoid, minimize or mitigate any adverse effects on historic properties.*" The level to which each of these agency responsibilities were fulfilled is insufficient.

Only 45 % of accessible land has been surveyed. The remaining 55% of accessible land has not been surveyed; this excludes areas within the high impact area. This is where major damages to archaeological sites will occur. How can the agency identify historic properties potentially affected by the undertaking, assess its effects and seek ways to avoid, minimize or mitigate any adverse effects on historic properties when more than half of the acreage has yet to be archaeologically surveyed?

The cumulative impacts to the archaeological resources within and/in relation to the training area have not been made available. The PA frames archaeological resources as individual sites diluting the potential to understand and investigate the archaeological, cultural and spiritual significance of Pōhakuloa as a whole. Under this approach analysis is limited, as well as, the ability to further understand how archaeological resources within the base are connected to those beyond the training areas artificial boundaries.

The collective significance of archaeological resources within the training area in relation to the broader region of Pōhakuloa and surrounding landscapes like Mauna Kea and the region it occupies - wao akua - has not been investigated, evaluated or consulted upon. A study investigating this broader, regional impacts, should be conducted to ensure that further potential damage to historical sites and potential districts are truly “mitigated”. Assessments to the larger context is essential to understand what exists and what is being loss due to military training activities. For example, what is the significant cumulative impact to archaeological resources? How do adverse impacts to these irreplaceable archaeological resources? What are the impacts of continued adverse effects?

With only 45% of accessible land surveyed providing a thorough region level assessment at this time is impossible. However, a number of archaeological studies have been conducted within the training area. These reports provide a basis to begin

building a broader, historical district, understanding. The remaining 55% of “accessible land” should be surveyed to provide a more thorough understanding of archaeological resources within the training area. What is the timeline for completed surveys of this area?

In March 2018 the Hawai'i Army National Guard (HIARNG) will receive \$800,000 in Capital Improvement Project funds from the state to construct a warehouse facility within the Pōhakuloa Training Area. An additional \$25 million for an operational readiness training complex at the Pohakuloa Training Area was approved. Annually, the US Military spends \$3.6 million to provide water to the base. With the amount of funds currently used and being given to the training area it seems that funding to fully survey, document and investigate remaining lands and reviewing lands surveyed is possible.

A timeline describing the actions that will be followed to ensure remaining lands are surveyed should be provided. A mass of land that remains within the high impact area is removed from surveys. Thus, surveying, identifying and investigating those lands that are accessible for archaeological resources becomes even more essential. What historical sites are located within the impact area? To adequately respond to this wider perspective providing a more indepth lens to the cultural, spiritual and archaeological significance *requires further meaningful consultation.*

Failure to Conduct Consultations to the Scale of the Undertaking (§§ 800.2.4)

The agency has failed to conduct consultations appropriate to the scale of the undertaking. Email communications and a public forum is inadequate. The draft PA was received in March 2018 containing 49 pages. Deadline for comments were to be submitted in 30 days. I submitted comments on the draft PA (letter attached, pages 25-29) on April 16, 2018. I also requested that the Advisory Council of Historic Preservation (ACHP) intervene on April 16, 2018 (email attached, page 30-36). I received a reply from Reid Nelson who forwarded my concerns to Katherine Kerr who would review my request. I had not received any follow up email from Katherine about the status of the ACHP review of my concerns or letter. I have not received information about how these comments were considered in the revisions by Julie Taomia.

Another copy of the PA was received on August 15, 2018 containing now 133 pages, along with, a notification of public forums being held in Hilo and Kona two weeks later (email attached, page 37). A deadline for comment on this new version of the PA was not made available. I have received conflicting deadlines by representatives at the Hilo (August 29th) gathering for when comments are due. On September 11, 2018 I wrote an email to the Julie Taomia the Cultural Resource Manager asking for clarifications and guidance. I resent the email the following day on September 12, 2018, again, failing to get a response. A third attempt for clarifications was sent on September 17, 2018

(emails attached, pages 38-40) and received a reply on September 18, 2018 (email attached, page 41). According to § 800.14.b.2.iv, the agency is responsible for providing “appropriate public notice before it [programmatic agreement] takes effect, and make any internal agency procedures implementing the agreement.” ***This notice has not been provided and therefore the PA should be denied until this notification is provided.***

In summary, Julie Taomia sent out the revised version of the PA on August 15, 2018 that contained an additional 84 pages from the draft copy. Forums were held two weeks later in Kona and Hilo. The deadline for comment was never made public. In the email I received from Julie Taomia she states that a deadline of September 7, 2018 was given. This deadline was not clearly given and would have provided individuals with only 23 days to submit comment. This comment period is inadequate and was never made public. Furthermore, the statute that these consultations are being conducted by has not been stated through all communications. Overall, the process has been unclear and isolating.

Failure to Identify Traditional Cultural Properties

Kanaka Maoli have requested access to the base for cultural practices and been denied. Through time, access to the training area has been inconsistent and primarily dependent upon the opinion of the Commander. By refusing to allow access to cultural practitioners the US Military actively attempts to extinguish place based connections

and practices to areas closed by the TA. According to the Native Hawaiian Organizations in the Section 106 Review Process: A Handbook (hereafter referred to as “Native Hawaiian Handbook”) (2011:14):

Another issue with the term TCP is that Bulletin 38 has sometimes been interpreted as requiring a Native Hawaiian organization to demonstrate continual use of a site in order for it to be considered a TCP in accordance with Bulletin 38. This could be problematic in that Native Hawaiian use of a historic property may be dictated by cyclical religious or cultural timeframes that do not comport with mainstream conceptions of “continuous” use; while in other cases, Native Hawaiian organizations may have been denied access to historic properties of religious and cultural significance to them. This is particularly true for historic properties located within military installations or on private property. It is important to note that under the NHPA and the Section 106 regulations, the determination of a historic property’s religious and cultural significance to a Native Hawaiian organization is not tied to continual or physical use of the property. Also, continual use is not a requirement for National Register eligibility.

Denial of access does not mean that there TCPs are not present at Pōhakuloa. There are pu‘u that surround the training area which are used for cultural practices that have religious and cultural significance. There are pu‘u within the training area that are used for cultural practices that have religious and cultural significance. There are archaeological sites/cultural structures located within and around the training area that are used for cultural practices that have religious and cultural significance.

The issue discussed with access is reinforced by limiting access to archaeological and ethnographic studies. Archaeologists and agencies have been given privileges to access and research Kanaka Maoli heritage while withholding knowledge from those whose ancestors created the material record they study and are to care for. These positions of authority have not been created by our people but the colonial government

that acts to reinforce their position, interests and priorities through processes like the PA that have made the US Military the judge and jury. While we - the descendants who have cultural and spiritual ties to the landscape - are distanced through this process, military personnel are given access to the base. According to the 2017 Draft ICRMP (2017:50), archaeological resources are impacted by “Vandalism and looting (either by military personnel or the public). While cultural practitioners are barred from the base to protect the cultural resources, what is the agency doing to prevent their military personnel from looting when these individuals are *allowed* access to the base? Actions should be described in the PA. Other issues in the PA are discussed below.

Failure to Demonstrate Reasonable and Good Faith Efforts § 800.4.b.1

The agency official has failed to demonstrate reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. The PA suggests that USAG-HI and USAG-Pōhakuloa have relied on can oral history study of PTA in 2002 and an ethnographic study in 2012 to fulfill this statute. What type of identification efforts were conducted during the drafting and finalizing of this agreement that demonstrate the agencies efforts? Relying upon reports conducted prior to the initiation of this document is inadequate.

A continual criticism by consultants and citizens is the lip service individuals have been given on this and other matters. Cultural resource managers have not proven or created

good faith relationships. Thus, relying on the agency to conduct consultation and consider the views submitted without oversight is negligent. Submitted comments, questions and concerns have remained ignored, unanswered and neglected. Because of this neglect to respond to concerns, requests and questions I ask that the ACHP actively participate in continued consultation.

According to the Native Hawaiian Handbook (2011:6):

For historical reasons, members of a Native Hawaiian organization may now be located on another Hawaiian island or other distant location far away from historic properties that still hold such significance for them. Accordingly, the regulations require that agencies make a reasonable and good-faith effort to identify Native Hawaiian organizations that may attach religious and cultural significance to historic properties that may be affected by the undertaking, *even if Native Hawaiian organizations now are located a great distance away from such properties and undertakings* [emphasis added].

Has the agency made a reasonable and good-faith effort to identify and consult with Native Hawaiian organizations located throughout the Hawaiian Islands? The wao akua - realm of the akua - is significant to Native Hawaiians throughout the islands. I request that the consultation record documenting the consultation meetings, site visits, and phone calls in addition to information about dates and who participated be released for review.

Failure to Resolve Adverse Effects § 800.6.a

It is the responsibility of the agency official to consult with consulting parties to seek ways to avoid, minimize or mitigate the adverse effects. Section 2.1 describes the types of trainings that occurs but not how training impacts archaeological resources. Other

than a few sentences real discussions that describe adverse impacts are virtually absent. A table outlining the archaeological site, type of training it would be affected by, level of adverse impact to the resource should be added. To draft resolutions that actually address the adverse impacts that will occur key pieces of information must be provided. A full list of questions to begin opening these discussions and create appropriate resolutions to address adverse effects can then be drafted. For instance questions like:

- How does each training activity impact archaeological resources?
- What are the adverse effects caused by continued use of the live-fire ranges, including the targeted high-hazard impact area?
- What are the adverse effects associated with investigation and disposal of unexploded ordnance?
- What type of adverse effects could result from emergency situations, including but not limited to, emergencies declared by the President or the Governor of Hawaii or actions to protect human health and property?
- How many archaeological sites will be adversely impacted by training activities within the “Go” areas and each training, high impact and maneuver areas?
- What have the adverse effects been to historic properties?
- How many historic properties have been affected by training activities?
- How will continued adverse effects impact historic properties?
- How many individual actions will have adverse impacts to archaeological resources?

Stipulation I.A. of the PA states: “To the extent feasible, USAG-Pōhakuloa and RDH shall develop and authorize undertakings designed to avoid adverse effects to historic properties.” The PA authorizes USAG-Pōhakuloa and RDH as the only individuals who will provide mitigation measures. Every mitigation measure should be formed in consultation with Native Hawaiian organizations and individuals who attach religious and cultural significance to historic properties that may be affected by an undertaking. The PA should be revised to ensure we the consultants and other NHOs are consulted regarding these mitigation measures.

Stipulation I.D. states: “The USAG-Pōhakuloa CRM will work with project proponents to redesign undertakings to avoid or *minimize adverse effects to historic properties as necessary* [emphasis added].” This vague language brings caution by allowing USAG-Pōhakuloa CRM to work with consultants to redesign undertakings “as necessary.” The PA should be revised to require consultation with NHOs and section 106 consultants.

Stipulation II.A.3.d. states: “USAG-Pōhakuloa CRM review that are within Go Areas and *in proximity to* [emphasis added] No Go Areas.” Language used in this statement is unclear and should require measurable distances (e.g., 15 ft, 50 ft). RDH do not have the cultural understanding or archaeological understanding to design buffers. Generally, archaeological monitoring plans that are written prior to approval of a project describe in

detail what the buffers are and what measures will be acted out to ensure archaeological sites are protected. The PA authorizes these buffers without prior design, consultation, approval or presence of a cultural resource employee or cultural practitioner. These buffers should be made in consultation with NHO's prior to the approval of the PA.

According to Stipulation II.A.3.e of the PA:

If a proposed undertaking is within the Slow Go Areas, and is *not one of the activities listed in Stipulation II.A.1* RDH shall forward complete information regarding the undertaking to the USAG-Pōhakuloa CRM at least 90 calendar days prior to initiation of the undertaking for review under Stipulation II.B.

“Slow Go Areas” are:

those where effects of training and support activities on historic properties *have not been taken into account in consultation with the SHPO and consulting parties*. Some of these areas may require historic properties surveys, additional field work to determine National Register eligibility, and/or consultation with the SHPO and consulting parties before training and support activities can take place

Stipulation ii.A.1 covers:

- a) Physical readiness training;
- b) Use of existing assembly areas (as illustrated in Appendix D)
- c) Deployment training;
- d) Landing zone and drop zone training at established landing zones and drop zones (as illustrated in Appendix D);
- e) Continued use of existing live-fire training ranges, impact area and firing points (as illustrated in Appendix D);
- f) Aviation training at existing ranges, impact area and other existing infrastructure (as illustrated in Appendix D);
- g) Training area configuration, maintenance and repair (no digging) within existing infrastructure footprints;
- h) Environmental management (no digging)

This stipulation allows RDH staff - who are not trained in cultural resource management - to approve of trainings without consulting with USAG-Pōhakuloa CRM or NHO's. More problematic, the effects of training and support activities on historic properties in the "Slow Go Areas" have not been taken into account in consultation with the SHPO and consulting parties. The RDH are given the authority to approve of projects that involve live fire training which would likely have the greatest impact to archaeological resources. Why are individuals who are not trained in archaeological, anthropological or cultural practices allowed to approve of potential and likely "adverse effects." A trained archaeologist and cultural monitor should be required on training in Go Areas and Slow Go Areas, especially. Stipulation 1.A.3.e. should be revised. Consultation should be required on ALL ACTIVITIES occurring within Slow Go Areas because the effects of training on historic properties have not been taken into account in consultation with SHPO and consulting parties.

Chapter 13-279, Hawai'i Administrative Rules entitled "Rules Governing Standards for Archaeological Monitoring Studies and Reports." These archaeological monitoring may include identification, mitigation or post-mitigation. With state lands leased to the federal agency, along with, the State Historic Preservation Division Suzanne Case as a signatory party to the PA the agency should be required to comply with this chapter. The PA does not mention archaeological monitoring reports. Why are archaeological monitoring reports not described or required when impacts will be adverse? The PA

should be revised to include archaeological monitors and archaeological monitoring plans for undertakings that will or have the potential to affect archaeological resources.

Stipulation 3.C.I. states that: “The USAG-Pōhakuloa CRM shall routinely assess the condition of select historic properties in the APE.” This requirement is inadequate by not providing more thorough documentation of impacts. The entire section should be revised to require archaeological monitoring and scheduled assessment for conditions of ALL historic properties in the APE. This should take place of Stipulation 3.C.II. and be conducted PRIOR to the approval of the PA.

Chapter 13-281, Hawaii Administrative Rules, entitled “Rules Governing Professional Qualifications” lists professional requirements for individuals serving as principal investigator. Most entry level positions as field technicians generally require that the individual have a B.A. in Anthropology or Archaeology, field school training, and 2 years of full-time professional experience, preferably in Hawaiian or Pacific Island field archaeology. Primary qualifications for a job listing as a Cultural Resources Specialist

Pohakuloa Training Area (PTA) ID 18272 required a:

Bachelor’s Degree from an accredited four (4) year college or university in Archaeology, Anthropology, Cultural Resources Management, or related field.
EXPERIENCE: One to three (1-3) years of experience in performing archaeological fieldwork, including pedestrian survey, mapping, excavation and testing, and technical report writing. ABIL/KNOW/SKILLS: Knowledge of archaeological methods. Ability to use compass, maps and GPS.

Given these requirements needed for these positions to practice cultural resource management as a consultant or employee at the training area Stipulation II.A.3. states:

The USAG-Pōhakuloa CRM shall provide training to RDH staff regarding their roles and responsibilities under this PA and the requirements of the NHPA in general. The USAG-Pōhakuloa CRM shall provide this training at least annually, and within 60 days of arrival of a new RDH staff member with responsibilities under this PA.

Professional requirements are diluted to annual trainings for RDH staff who are given the authority to participate in the design of mitigation measures (Stipulation I.A), authorize and design buffers (Stipulation II.A.3.d), authorize trainings within Go Areas and Slow Go Areas WITHOUT USAG-Pōhakuloa CRM (Stipulation II.3.c.d.e.). A trained archaeologist and cultural monitor should be required to review all of these matters. RDH staff do not have the necessary training to make informed decisions regarding archaeological and cultural resources.

Stipulation D.II.2.a. states that adverse effects will be resolved by personnel watch a “short educational video” and the military hold “listening sessions” twice annually; these resolutions are offensive and inadequate. If adverse effects are not fully understood, explained or described then creating resolutions at this stage is too early. I and others have requested meaningful consultation through face-to-face public meetings. These requests have not been met. Resolutions are inadequate and adverse effects remain to be resolved. Further consultation to resolve adverse effects is needed.

Conflict of Interest in Fulfilling Timing (§ 800.1.c)

The agency official is required to fulfill section 106 *prior* to the approval of the action. In this case, consultation is taking place *while* the action is ongoing. Meaningful agency

official must complete the section 106 process “prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license.”

Consultation is not complete nor finishes when an existing agreement for said activities expires. This is not and should not be the deadline for consultations. It is the responsibility of the agency to ensure that they have not only started consultation in a reasonable time prior to the undertaking, but also to ensure that consultations conducted are to the scale of the undertaking. This is another issue with consultation.

Coordination and Compliance with the National Environment Protection Act and Other Federal Laws

Section 2.2.3.2 Natural Resources Management of the PA states that “Natural resources management plays a crucial role in the Army’s ability to conduct training missions; each has the potential to impact the other.” In December 2017 two nesting areas for the band-rumped storm-petrel - an endangered sea bird - was confirmed within Pohakuloa Training Area. An article published by Island Conservation Preventing Extinctions stated that “These are the only known nesting sites for the birds in the state.” Given the uniqueness and rarity of this nesting site, in addition to, the recent finding I question if existing environmental reports have considered how existing and continued training will impact nesting?

The palila—a bird endemic to Hawai‘i—depends on the native Hawaiian dry land forests located in and around Pōhakuloa to survive. The palila existence are inextricably linked

to green māmane seeds its food source. Shortfalls in the supply of māmane seed pods could lead to the extinction. Given the training approved in this PA, has the agency fulfilled requirements of the Endangered Species Act (ESA) of 1973? How will these approved activities impact these and other species and habitats supportive of these aumakua and endangered species? The agency has a responsibility to ensure that new and existing invasive species are not introduced to the area. Such a consideration falls within the purview of the ESA.

Section 2.2.3.2 Natural Resources Management of the PA neglects to describe impacts to water resources. In April 2017, Dr. Don Thomas, funded by U.S. Army Garrison-Hawaii through Cooperative Ecosystem Studies Units National Network, was hired to investigate the area for available water resources. Although the base is located 6,200 ft in elevation, investigations located a perched groundwater pocket at just 600 ft that remained stable until 1,200 ft. Thomas states that what they were seeing was “an ash layer, fairly rich in clay.” On August 29, 2018 at the public forum Gregory R. Fleming, deputy garrison commander, verbally informed me that he was unaware of studies that were conducted to investigate the seismic impact of training on the aquifer. Continued, sustained, impact of live fire training on the High Hazard Impact Area containing more than 51,000 acres will have accumulated impacts. Continued use of this area will add to these impacts.

Are the actions described in the PA in compliance with the National Environmental Policy Act (NEPA)? Has the agency assessed how the proposed actions will impact the human resources and environmental resources? Has the agency satisfied the requirements of NEPA? Has an Environmental Assessment or Environmental Impact Statement on the cumulative impacts to the 133,000 acres been conducted? This PA does not replace compliance with other federal laws. I ask the agency and ACHP to investigate if other statutes, as applicable, such as the National Environmental Policy Act, the Native American Graves Protection and Repatriation Act, the American Indian Religious Freedom Act, the Archeological Resources Protection Act, and agency-specific legislation require further review.

Native Hawaiian Organizations and Individuals are Not Signatories

The execution of the PA requires four signatures from the (1) Lieutenant Colonel Loreto V. Borce, Jr, U.S. Army, Commanding, (2) Colonel Thomas F. Barrett, U.S. Army, Commanding, (3) Ms. Suzanne D. Case, Chairperson, Department of Land and Natural Resources, and (4) John M. Fowler, Executive Director. Native Hawaiian Organizations and Consultants should be invited to enter this agreement. In its current form, disputes by the public and NHO's would be given to Garrison Commander. The commander would determine if the "objection is substantive" and will have the "final authority for resolution of objections." Additionally, proposed amendments do not require the signature of a NHO or consulting party to be approved. The amendment would only require the signature of the four authorities listed above.

Though we have a vested interest in the resources impacted by activities approved under this agreement we are not a signatory. I am requesting that NHOs and consultants be invited to sign onto this agreement. With the chairperson of DLNR signing on as a signatory the agency should be required to abide by administrative rules pertaining to historic preservation in Hawai'i. That agency leases lands from the state and therefore should be required to abide by federal and state laws.

Failure to Address Order by Judge Chang in Ching v Aila Civil No. 14-00253

Findings in Ching v Aila Civil No. 14-00253 the court determined that:

Defendants breached their trust obligations by failing to malama 'aina the Subject Lands [State General Lease No. S-3849]. 2. Defendants are ordered to fulfill their trust obligations by doing the following: A. Defendants shall promptly initiate and undertake affirmative activity to malama 'aina the Subject Lands. B. Malama 'aina of the Subject Lands by Defendants includes, but is not necessarily limited to 1. To develop a written plan to malama saina the Subject Lands.

How are trainings described in the PA in compliance with the Malama Aina finding?

Continued use of the training area will add to the damages that were found to exist that remain to be addressed.

For decades Kanaka Maoli and others have voiced concerns over military activities at Pōhakuloa. Myself and others attach cultural and spiritual significance to this landscape and the broader surrounding area. The Programmatic Agreement does not mention this finding of fact, describe how activities covered by this document will coordinate with this

determination and plan. Furthermore, the PA states that cultural and spiritual practices conducted at Pōhakuloa have not been identified; this statement is incorrect.

Ching v. Aila stated that:

Plaintiffs Clarence Ching and Mary Maxine Kahalelio are residents of the State of Hawaii. They have in the past and *are currently actively engaged in cultural practices upon the Pohakuloa Training Area* [emphasis added] that is the subject of this action. Cultural practices may include, but are not necessarily limited to, (1) song, dance, and chant about Pohakuloa and its history, (2) walking upon the lands at Pohakuloa, feeling, showing, and experiencing reverence, respect, and celebration of said lands, (3) honoring the rich cultural history, significance of, and sacredness of Pohakuloa, Hualalai, Mauna Loa, and Mauna Kea, (4) enjoying the native plants, animals, and insects that reside in Pohakuloa, and (5) recognizing what a precious cultural jewel Pohakuloa is to all of the people of Hawaii and their ancestors.

The PA should be corrected to include and consider this information in its execution.

Failure to Consider Impacts to Native Hawaiians Per the Admission Act

Finally, the Admission Act (Act of March 18, 1959, Pub L 86-3, 73 Stat 4) states that all land in Hawaii, including submerged lands, is held in trust for the betterment of Native Hawaiians. These lands that are currently within the training area are and have not been understood nor meaningfully investigated. The scale and adverse effects of the undertaking upon the resources located within the area covered by the PA deserve further investigation.

Conclusion

The goal of the PA is to govern the implementation of a particular program or the resolution of adverse effects from certain complex project situations or multiple undertakings. The PA is an alternative procedure that can be used to develop procedures to implement section 106 (§ 800.14.a). The goal of the PA is to govern the implementation of a particular program or the resolution of adverse effects from certain complex project situations or multiple undertakings (§ 800.14.b). Press releases issued by the agency (U.S. Army Garrison-Hawaii) stated that:

The draft PA describes how the Army proposes to avoid, minimize and resolve any potential effects routine training and related activities may have on historic properties. *It consolidates previous and new Army cultural resource commitments in a single, agreed-upon document* [emphasis added]. It will also improve preservation efforts and reduce administrative time and paperwork for consulting parties, the Hawaii State Historic Preservation Division, the Advisory Council on Historic Preservation, and the Army's Cultural Resources section at Pōhakuloa.

The timeline for section 106 consultants does not revolve around the convenience of the agency nor the expiration of existing agreements.

Approving the PA at this time is premature. The agency has not met their statutory responsibilities of section 106 of the National Historic Preservation Act. The magnitude of the undertaking and the nature of its effects upon historic properties has not been described nor have broader, district perspectives of the significance archaeological resources been investigated. Only limited information has been provided. Questions regarding if the agency have completed NEPA review for actions described in the PA remain. Past and added impacts to endangered species and water resources should be

investigated to ensure continued and future training do not have adverse effects and if so, that they are addressed. Adverse effects have not been adequately described nor resolved. Recent conclusions issued in Ching v Aila Civil No. 14-00253 are not addressed in this PA.

When the federal government receives funding from the taxpayers of America to pay for a project the agency must comply with all of the laws relevant.

Deny the Programmatic Agreement and request to be consulted on a case by case basis using section 106 consultation until the public is assured that the agency has fulfilled legal responsibilities.

Mahalo for the opportunity to comment,

Ruth Aloua
District: Kona
Age: 29

Email Communications

Comments on Draft Programmatic Agreement
Sent to Julie Taomia on April 16, 2018

Aloha,

I am writing to submit comments for the Programmatic Agreement out for review. My name is Ruth-Rebeccalynne Tyana Lokelani Aloua and I am a Kanaka Maoli from Hawai'i Island with ancestral connections to the Kona District. I descend from the Keli'i Ho'omanawanui, Hoapili and Ka'ana'ana lineage who resided in Hawai'i prior to 1778. I step forward as a kia'i loko (fishpond guardian) of Kaloko Fishpond and mahi'ai (farmer). I received my BA degree in anthropology from the University of Hawai'i at Hilo and MA in archaeology from Simon Fraser University in Burnaby, British Columbia.

I ask that approval of the programmatic agreement be denied until there is further consultation with Native Hawaiians and more collaborative, communicative and real effort to hear our concerns. As a cultural practitioner with practices and sacred beliefs associated with Pōhakuloa I strongly disagree with statements made in this document. This area has qualifications that make it eligible for listing as a Traditional Cultural Property (TCP). Pōhakuloa is a living cultural landscape that is held sacred by Kanaka Maoli throughout Hawai'i. I and other Native Hawaiians have voiced our cultural and spiritual connections to this landscape. The US military ignores our living connections and attempts to extinguish this through false documents and claims. With my educational background in anthropology and archaeology I ask the Cultural Resource Management supervisors and employees to support our request by delaying approval and coordinating meetings in East and West Hawai'i. Approving this document without further Section 106 consultation is irresponsible and unethical knowing that conflicts exist. I request for the Advisory Council on Historic Preservation intervene and delay approval to investigate issues raised in this and other letters.

Below I list several issues followed by suggestions to bring the PA to a minimally acceptable condition.

Inadequate Archaeological Surveys

Only 45% of the training area has been completely surveyed (Line 64). This includes: Training Area 11, Training Area 10, Training Area 17, Training Area 13, Training Area 18, Training Area 20, Training Area 19, Training Area 22, Training Area 23, Training Area 21, Training Area 2, Training Area 2. Most of the Impact Area - lands whose archaeological resources would be most likely to be irreversibly damaged - also has not been fully surveyed. This and other areas should have been properly surveyed before used for trainings and immediately after historic preservation laws calling for greater protection of archaeological resources was passed. In the process of not surveying these lands there has likely been greater dispersal of unexploded ordnances.

Prolonging surveys will increase dispersal of unexploded ordnances. ***Before the PA is approved I ask that the ACHP require all lands currently used for training (partial and whole portions) that have not been surveyed be fully surveyed before continued training.***

Archaeological Significance

An understanding of Pōhakuloa archaeological (tangible and intangible) remains as understood through a cultural lens is avoided by the US military and unmentioned in cultural resource reports. Contextualizing the significance of Pōhakuloa in relationship to the Hawaiian culture and Mauna Kea is central to understanding the significance of the landscape. Documentation and explanations relating to what type of damages are being done to the archaeological record (as understood by Native Hawaiians, particularly cultural practitioners) remains absent. Within the PA and cultural resource documents there is a lack of discussion regarding how military training activities and developments irreversibly damage ancestral remains. Concerns voiced by Native Hawaiians to the Cultural Resource Management supervisors and staff are ignored.

Responses instead are provided by a public liaison who is unqualified to speak about archaeological and cultural matters. ***Before the PA is approved I ask that the ACHP investigate records to review consultation with Native Hawaiian practitioners regarding archaeological findings and determinations.***

Cultural and Spiritual Significance

Pōhakuloa sits on the flanks of Mauna Kea and Mauna Loa. These mountain ranges are culturally and spiritually significant. Our connections to these mountains extend to Pōhakuloa. Cumulative impacts to the health and well being of our people caused by damages to cultural and spiritual beliefs have not been conducted. Understanding impacts to intangible values is central to cultural resource management that deserves consideration. ***I ask that the ACHP intervene and assist with revisions to the PA that require a cultural, sociological and psychological impact assessment of cumulative impacts to Native Hawaiian health and wellbeing be conducted immediately.***

Water as a Cultural Resource

Pōhakuloa is our ‘āina kupuna (ancestral lands). We have never consented to the illegal seizure of these lands by the US military for desecration, pollution and occupation. The US military has irreversibly damaged Kaho'olawe by cracking the islands aquifer. Upon leaving this island expansions were made at Pōhakuloa. Live fire trainings and bombing continue on our island. Water is a natural and cultural resource. Cumulative impacts of military activities and trainings on water resources (natural and cultural) are unknown. I ask that reports discussing cumulative impacts to water resources be shared. ***If not conducted, I ask that the ACHP intervene and require the US military to investigate these impacts immediately.***

Traditional Cultural Property

The PA refers to an oral history and ethnographic study that was conducted (Line 70-73). According to the PA, these reports did not identify any Traditional Cultural Properties (TCP) (Line 74-74); this statement is false. In the written report (referenced in Appendix C) the study conducted by Social Research Pacific, Inc. stated that “The report remains in draft form because the author would not make a distinction between archaeological sites and TCPs and *assigned TCP status to all archaeological sites* [emphasis added] without evidence to support such a designation.” The second study conducted by Dawson Group and Pacific Consulting Services, Inc. noted that “no information has been identified reflecting an association between PTA lands and any special or extraordinary beliefs.” Both of these studies concluded opposing findings. Furthermore, public access to The first that assigned TCP status to all archaeological sites remains in draft form. Both of the reports have opposing findings. To many Native Hawaiians, Pōhakuloa is a sacred site that is considered as a wao akua (realm of the gods) extending from Mauna Loa and Mauna Kea. These and other points regarding the spiritual and cultural significance of this landscape has been voiced at public meetings and submitted in writing through public comment processes. No where in the PA or attached report is there any mention of these spiritual and cultural connections. For the reasons discussed, ***I ask that the ACHP intervene and investigate Pōhakuloa as a TCP before the PA is approved. We further request that public meetings be held in East and West Hawai’i regarding the PA before approved and that minutes be provided to the ACHP if a member cannot be present. Assessments and discussions relating to cumulative impacts to tangible and intangible values and resources is an issue that should be addressed before this PA is approved. Such an assessment would help to provide greater insight into broader impacts to Native Hawaiian cultural and physical values that connect to health and well being extending to the environment (e.g., land, water, mountain range).***

Cultural Access

I ask the ACHP to intervene and work with Native Hawaiian practitioners and NHO to facilitate access to PTA for cultural practices. This has been a request of Native Hawaiians that has yet to be acknowledged. This PA will guide other lower level planning documents and directives. Thus, it is essential that the PA be revised to include cultural access for cultural practices. ***We ask that the ACHP intervene and facilitate revisions to include access for cultural practitioners.***

Aloha ‘Āina,

Ruth Aloua

District: Kona

Age: 29

Letter to ACHP Asking for Intervention

Email Sent to Reid Nelson and Patricia Knoll

Aloha Mr. Nelson and Ms. Knoll,

My name is Ruth Aloua and I am a Native Hawaiian writing to ask for your assistance regarding the approval of a Programmatic Agreement for Pohakuloa Military Training Area on Hawai'i Island, Hawai'i. The deadline for comments was today (April 16). I and numerous others have major issues with the PA in its current form. We have submitted letters requesting further information and improvements. Adequate consultation with Native Hawaiians and NHO's in the Section 106 process has been a long standing issue. As a cultural practitioner and trained anthropologist and archaeologist I ask for your help to review these issues. Section 106 cannot be successful unless there is meaningful engagement between the agency, right holders and stakeholders.

Consultation efforts by the staff at Pohakuloa Military Training Area have had an isolating effect on Native Hawaiians and the general public. There have been long standing issues and concerns regarding the management of, treatment to, and impact to the cultural resources (tangible and intangible, cultural and natural) located within the 133,000 acre training area. Our concerns are ignored and unacknowledged. Questions remain unanswered.

I have written a letter outlining my concerns and suggestions that includes intervention by the ACHP on several matters. My letter is attached below. I kindly ask for your time

to look into this matter. The lifespan of this document will be used to guide future actions in the coming years.

Thank-you for you time and consideration,

Ruth Aloua

-----Copy of Letter Included Below-----

Sent to:

Dr. Julie M. Taomia

Cultural Resources Manager

US Army Garrison - Pohakuloa Hawaii

julie.m.taomia.civ@mail.mil(808) 436-4280

Aloha,

I am writing to submit comments for the Programmatic Agreement out for review. My name is Ruth-Rebeccalynne Tyana Lokelani Aloua and I am a Kanaka Maoli from Hawai'i Island with ancestral connections to the Kona District. I descend from the Keli'i Ho'omanawanui, Hoapili and Ka'ana'ana lineage who resided in Hawai'i prior to 1778. I step forward as a kia'i loko (fishpond guardian) of Kaloko Fishpond and mahi'ai (farmer). I received my BA degree in anthropology from the University of Hawai'i at Hilo and MA in archaeology from Simon Fraser University in Burnaby, British Columbia.

I ask that approval of the programmatic agreement be denied until there is further consultation with Native Hawaiians and more collaborative, communicative and

real effort to hear our concerns. As a cultural practitioner with practices and sacred beliefs associated with Pōhakuloa I strongly disagree with statements made in this document. This area has qualifications that make it eligible for listing as a Traditional Cultural Property (TCP). Pōhakuloa is a living cultural landscape that is held sacred by Kanaka Maoli throughout Hawai'i. I and other Native Hawaiians have voiced our cultural and spiritual connections to this landscape. The US military ignores our living connections and attempts to extinguish this through false documents and claims. With my educational background in anthropology and archaeology I ask the Cultural Resource Management supervisors and employees to support our request by delaying approval and coordinating meetings in East and West Hawai'i. Approving this document without further Section 106 consultation is irresponsible and unethical knowing that conflicts exist. I request for the Advisory Council on Historic Preservation intervene and delay approval to investigate issues raised in this and other letters.

Below I list several issues followed by suggestions to bring the PA to a minimally acceptable condition.

Inadequate Archaeological Surveys

Only 45% of the training area has been completely surveyed (Line 64). This includes: Training Area 11, Training Area 10, Training Area 17, Training Area 13, Training Area 18, Training Area 20, Training Area 19, Training Area 22, Training Area 23, Training Area 21, Training Area 2, Training Area 2. Most of the Impact Area - lands whose archaeological resources would be most likely to be irreversibly damaged - also has not been fully surveyed. This and other areas should have been properly surveyed before

used for trainings and immediately after historic preservation laws calling for greater protection of archaeological resources was passed. In the process of not surveying these lands there has likely been greater dispersal of unexploded ordnances.

Prolonging surveys will increase dispersal of unexploded ordnances. ***Before the PA is approved I ask that the ACHP require all lands currently used for training (partial and whole portions) that have not been surveyed be fully surveyed before continued training.***

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Aloha 'Āina,

Ruth Aloua

District: Kona

Age: 29

Email Sent by Julie Taomia on August 15, 2018

RE Public Forums for PA

Aloha,

US Army Garrison - Pohakuloa will be hosting public information forums to provide the public an opportunity to learn about the training PA, PTA, and the routine training activities that it covers. We would like to extend an invitation to those who have participated in the consultation to develop this document to attend if you are interested and able.

The forums are as follows

Hilo: Wednesday August 29, 2018 5:00-7:00 pm at 'Imiloa Astronomy Center, UH Hilo

Kailua-Kona: Thursday August 30, 2018 5:00-7:00 at the Paddler's Room in the Courtyard Marriott King Kamehameha's Kona Beach Hotel

The current revised draft of the PA is attached for your review.

Mahalo,

Julie

Dr. Julie M. Taomia
Cultural Resources Manager
US Army Garrison - Pohakuloa Hawaii

julie.m.taomia.civ@mail.mil

Desk: (808) 969-2536

Cell: (808) 436-4280

Email Asking for Clarifications and Notification of Deadline

Sent to Julie Taomia on September 11, 2018, September 12, 2018, September 17, 2018

I am writing for clarifications regarding the PROGRAMMATIC AGREEMENT AMONG THE U.S. ARMY GARRISON, PŌHAKULOA, U.S. ARMY GARRISON, HAWAII, THE HAWAII STATE HISTORIC PRESERVATION OFFICER, AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION REGARDING ROUTINE MILITARY TRAINING ACTIONS AND RELATED ACTIVITIES AT UNITED STATES ARMY INSTALLATIONS ON THE ISLAND OF HAWAI'I, HAWAI'I.

- What is the deadline for public comment on this document? This information was never provided and conflicting responses were given by representatives at the public forum in Hilo. The community needs to be alerted of this deadline and should be given appropriate time to respond to the August 2018 version that we were recently provided with.

- What statute was the public forum, email communication and letter I received in the mail covered under? I would like clarification as to if this is part of the Section 106 process. I reviewed the email I received and it did not state which statute these communications were being sent for the fulfillment of.

- What statute guides the development of this programmatic agreement?

- What is the expiration date for the Programmatic Agreement Among the United States Army Garrison, Hawaii, the Hawai'i State Historic Preservation Office and the Advisory Council on Historic Preservation for Section 106 Responsibilities for the Army Transformation of the *2nd Brigade, 25th Infantry Division (Light) to a Stryker Brigade Combat Team (SBCT) (2004 as amended)*? This is not listed in the programmatic agreement provided in the current PA.

Furthermore, I have not received a copy of this PA. Can I please have a digital copy and a physical copy mailed to:

Ruth Aloua

PO Box 0584

Kailua-Kona, HI

96745-0584

- I have not received a copy of the The Programatic Agreement Among the United States Army Garrison- Hawaii, the United States Army Garrison-Pōhakuloa, The United States Army Pacific, the Hawaii State Historic Preservation Officer, and the Advisory Council on Historic Preservation for the Development and Operation of the Infantry Platoon Battle Course at Pōhakuloa Training Area, Ka'ohē Ahupua'a, Hāmākua District, Hawai'i Island, County of Hawai'i, Hawai'i. Can I please have a digital copy and a physical copy mailed to the address listed above.

- Finally, please replace my existing physical address to:

Ruth Aloua

PO Box 0584

Kailua-Kona, HI

96745-0584

If I need to fill out a written request please send the document digitally so that I can have this signed and returned ASAP.

I look forward to receiving responses to the questions listed. If you have further information that I should be aware of please let me know.

Mahalo,

Ruth Aloua

**Email Received from Julie Taomia on September 18, 2018 Responding to Email
Sent On September 11, 2018, September 12, 2018, September 17, 2018**

Aloha Ruth,

The public notice regarding the Training PA was sent out May 21, 2018. In addition, the Army provided the public with an opportunity to learn more about the Section 106 process, the PA, and Pohakuloa Training Area on August 29 and 30. At that time we also provided an opportunity for attendees to provide additional comments either in writing or by video. As a reminder, we spoke on August 29 that comments received by September 7 could be taken into account in finalizing the document. Any comments and/or inputs received after September 7 may not be considered due to timeliness. I have not forgotten your request for documents and I am working to get them for you.

Mahalo,

Julie

Dr. Julie M. Taomia

Cultural Resources Manager

US Army Garrison – Pohakuloa Hawaii

julie.m.taomia.civ@mail.mil

Desk: (808) 969-2536

Cell: (808) 436-4280