

MEMORANDUM FOR RECORD

SUBJECT: Continued Section 106 Consultation for the Proposed Modernization Projects at Piiilaau Army Recreation Center (PARC) Meeting Notes to Discuss the Resolution of Adverse Effects and the Development of an Agreement Document (CRS-18-103).

1. In accordance with the National Historic Preservation Act (NHPA), 36 CFR 800.6, United States Army Garrison, Hawaii (USAG-HI) invited Native Hawaiian Organizations and interested parties to a meeting to continue Section 106 consultation regarding potential effects to an archaeological site as a result of the proposed Modernization Projects at Piiilaau Army Recreation Center.
2. Due to COVID 19 restrictions the meeting was held via teleconference on Tuesday, August 11, 2020 from 3:00 p.m. to 4:00 p.m. The purpose of the consultation meeting is to collaborate on developing an agreement document to discuss site impacts and mitigation of adverse effects for this undertaking and future undertakings. Enclosure 1 provides a list of participants.
3. The meeting agenda included reviewing the modernization project description and area of potential effect, the description of historic properties, and the discussion of adverse effects and options to avoid, minimize and mitigate the potential effects to the site. Enclosure 2 provides summary notes of the meeting discussions.
4. The point of contact is Ms. Jackie Pamerleau-Walden, (808) 655-9727, Archaeologist, USAG-HI Directorate of Public Works, Environmental Division (DPW-ENV).

Jacqueline Pamerleau-Walden
Archaeologist
USAG-HI DPW-ENV

2 Enclosures:

1. List of Meetings and Attendees
2. Meeting Notes

IMHW-PWE

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Enclosure 1: Meeting Attendees

Participants

State Historic Preservation Division (SHPD)

Susan Lebo – Archaeology Branch Chief
Stephanie Hacker - Archaeologist
Julia Flauaus – Architectural Historian
Ka’āhiki Solis – Cultural Historian

U.S. Army

Rhonda Suzuki - Environmental Division Chief, U.S. Army Garrison-Hawaii (USAG-HI)
Lynne Welsh – Conservation Branch Chief, USAG-HI
Richard Davis – Cultural Resource Manager, USAG-HI
Laura Gilda – Archaeologist, USAG-HI
Jacqueline Pamerleau-Walden - Archaeologist, USAG-HI
Angus Raff-Tierney – Archaeologist, USAG-HI
Ciara Anderson – Cultural Resources Specialist, Contractor (Note recorder)
Dawn Dobbs– Legal Office, Staff Judge Advocate
Jillian Singleton – Chief, Business Operations Division, USAG-HI
Amon Evans – Contract Officer of Representative, USAG-HI
James Cutschall – Project Manager, Installation Management Command Headquarters-G9 (IMCOM HQ)
* Len Ambrosio – Chief, Major Projects Branch, IMCOM HQ-G9

Piiilaau Army Recreation Center (PARC)

Diana Wendlinger – Business Operations Manager

Native Hawaiian Organization (NHO)

Christophor Oliveira – Marae Ha’akoa
* Glen Kila – Ko’a Mana / Koa Ike
* Tom Lenchanko – ‘Aha Kūkaniloko Ko’a Mana Mea Ola Kanaka Mauli Hoalii Iku Pau

* *Involved parties unable to attend the meeting.*

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Enclosure 2: Meeting Notes

Meeting opened with reviewing the agenda and the introduction of participants to clarify individual roles in the Section 106 process. Before the meeting began all participants confirmed they had received all the meeting documents.

Agenda Item 1: Project Description and APE

Mr. Cutschall introduced the project. The PARC modernization project consists of multiple phases (Phase 1- no ground disturbance and Phase 2- ground disturbance). The no ground disturbance (phase 1) has begun and includes renovations on the cabins and the old barracks building (Makai Hale). Section 106 consultation for no ground disturbance (Phase 1) has been previously completed. Each phase is independent of the other and there will be no segmentation as far as NEPA is concerned.

The ground disturbing portions of the modernization project currently being discussed today:

- The new perimeter fence installation has been removed. It will be revisited in the future.
- Perimeter fencing is still planned only for the Cove Pavilion area on the north side of the stream.
- Several utility pole installation/relocations.
- Three acres of grassy area with irrigation and landscaping.
- A new "Cove Pavilion" bathroom building is being constructed at the north end of PARC with utilities running to it.
- A fiber optics connection is being considered as an addition to the project that will connect all the cabins.
- Outside showers and the drainage systems will be upgraded.
- Existing maintenance yard will be concreted and have drainage added.
- Permeable pavers will be installed behind the maintenance building.
- The asphalt roadway/parking will be resurfaced and pavement will be added to the southern graveled area. No work will extend south the last southern cabin. Signage will be added with concrete supports.
- The back porches and sidewalk on the Makai hale will be removed and replaced. Minimal disturbance expected.
- Footers of porches may extend into undisturbed soils.

Mr. Oliveira explained that previously disturbed soils can contain burials and need to be considered and asked for clarification of what is considered ground disturbance.

Mr. Cutschall replied anything that causes soil to move is considered ground disturbance.

- The project will attempt to reuse the current footprints when possible during the project.
- A new security system will be installed.
- To limit ground disturbance, the goal is to maximize the use of the trenches by co-locating utilities.

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- The Wai'anae House shade structure is being removed and replaced including the concrete slab and footers.
- Some of the landscaping and irrigation will overlap with a possible future water works project at PARC.

(The proposed ground disturbing activities of the project are explained in detail in Enclosure 1 provided in the meeting invite and the Section 106 packet)

Questions/Comments:

Mr. Oliveira's main concern is that his family is respected. While **Mr. Kila** is not present, Mr. Oliveira expressed that they both appreciate and support the need for upgrades at PARC. It is important to have a productive relationship but the project needs to mitigate any type of risk for the associated family and cultural history at PARC.

Agenda Item 2: Description of Historic Properties

PARC has been identified as a historic site, eligible for the National Register of Historic Places (NRHP) under Criterion C and Criterion D. The petroglyphs on the beach side of PARC exhibit characteristics that meet Criterion C. The archaeological site meets Criterion D. This project is inland of the seawall.

Mr. Davis summarized the four criteria that historic properties can be eligible for under the NRHP.

Ms. Solis directed Mr. Oliveira to www.achp.gov as a reference for the historic property criteria.

Mr. Oliveira requested that the current NRHP designation of PARC be revisited as he can provide additional data that would make Criterion A and Criterion B also applicable. More criteria equals more protection for the site to ensure that all aspects of site are considered when planning projects.

Ms. Walden drew attention to Enclosure 1 which included maps of the current project areas with archaeological finds from previous projects marked by points. Points do not specify if they are features, burials, or test units. The discussion was as follows:

- The group recognized the large quantity of features/finds previously located at PARC.
- Although the perimeter fence replacement has been cancelled for the current project, the work is still planned.
- The current geographical information for archaeological discoveries at PARC needs to be updated with data from the recently completed "Seawall Project" to reflect the most recent information.
- **Ms. Oliveira** and **Ms. Gilda** drew attention to the density of archaeological finds at PARC. The current count for that project included 30 MNI (minimum number of individuals) from 27 discrete burials and a couple isolates, located on the seaward side of PARC.
- Updated maps will be provided at the next meeting in a similar format currently provided marked by points. Disturbed areas will be identified by polygons.

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Dr. Lebo voiced concerns about using point data and inquired if the points represented individual features. Additionally, SHPD requests information on known areas of previous activity and to further define the meaning of individual points.

Ms. Walden noted that the GPS points recorded during the “Seawall Project” were sub-meter accurate and that features will be delineated. The next maps will show trenches and disturbed areas with updated data and point features from the “Seawall Project”.

Mr. Davis reiterated that the points illustrated in the enclosure were compiled during the recent evaluation of the archaeological site at PARC. Data was generated from previous surveys (1980s and 1990s), records from that period are not up to today’s standards. The evaluation has been previously shared with SHPD. The evaluation may be revisited. There is no final report from the “Seawall Project”.

Dr. Lebo the cultural layer at PARC may be more than just those features recorded. Will the provided maps show the projected boundary of the cultural layer or treat everything within the project area as part of the cultural layer? What constitutes disturbance?

Mr. Raff-Tierney clarified that most of the points on the maps represent features. Some of them also represent positive test units from Hammatt 1985 where multiple features within each test unit were possible.

Mr. Oliveira requested that the group recognize that we are being more diligent on what constitutes cultural heritage and questions the legitimacy of using past reports that lacked input or representation of NHOs. Stated a lot would have been missed during the Seawall project if cultural advisors were not present.

Ms. Gilda noted that most of the data was collected during the early days of GPS so may not be accurate. A detailed compilation of past work at PARC will be generated to try to produce the most accurate information possible before the next meeting.

Mr. Oliveira stated during brought up the previous “Seawall Project”, disturbance was greater than defined, the biggest concern is underestimating and under-planning possibly resulting in complications which then become a much larger issue and need to be mitigated during implementation. Concern was expressed about the after effects of changed methods during the Seawall project and asked how that will be addressed in future planning. It is important to be comprehensive during this process so that cultural heritage does not become secondary to modernization.

Ms. Gilda explained that ground disturbance is potentially identified in advance. It is important be cognitive of unforeseen safety and construction issues and there is always some on-the-spot decision making. PARC’s history and “Seawall Project” will be considered.

Ms. Hacker asked if the project changes, would the consultation be brought back to be reopened by SHPD?

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Mr. Oliveira noted that there is an issue with the structure of the contracts. He is watching certain agencies leverage money over law and he requests that the archaeological contract does not fall under the construction contract. It creates a situation where pressure is leveraged on employees to change [the archaeological] view. This raises concerns about ethical issues and compromised contracts. The cultural advisors were already expediting the process due to the immediacy of the "Seawall Project" needs however; the contracting people leveraged one side against the other because they managed both. Cultural advisors cannot be successful if there is no integrity in the process.

Mr. Cutschall explained the archaeological funding would come out of the project budget.

Mr. Oliveira expressed that it is unacceptable to the NHOs for contracts to have that type of overlap and directed ire at the Army representatives in the meeting. This process cannot happen again [after the Seawall Project] where the heritage and ancestors are minimized. This is a main point of contention. He stated he is willing to sue the Army if the type of contracting is repeated again. The archaeologist needs to be separated from the construction contract.

[The discussion was unintelligible and stalled while Mr. Oliveira passionately expressed his frustration to the group.]

Ms. Walden clarified that there was confusion, that the construction contractor was not participating in this meeting, and that no contract has been awarded.

Mr. Davis requested clarification that what **Mr. Oliveira** saw in the previous project was that the archaeology and construction contracts were linked. The structural relationship in contracts should be re-examined to prevent this from happening it again.

Mr. Oliveira suggested corruption when the contract pays out money to both the archaeologist and construction company putting the federal law secondary to the construction budget. This is a conflict [of interests] that can be manipulated.

Mr. Davis explained that **Mr. Cutschall** is in a position to structure the contracts.

Mr. Cutschall explained that the archaeology contract would be third party independent and reassured Mr. Oliveira that the contracting officer for this project grew up in Hawai'i. He is very concerned about the same issues and the project will follow Section 106.

Ms. Suzuki expressed that she fully understands the concerns and how things went during the "Seawall Project" and this will be addressed the next project. The group was reminded the archaeological contract is not let yet and to keep the topic on track.

Agenda Item 3: Discussion of Adverse Effects and Options to Avoid, Minimize and Mitigate

Maps from Enclosure 1 were based on information that was available when the PARC modernization Section 106 consultation began 2 years ago. More information will be added from

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the “Seawall Project” as it becomes available. The purpose of the maps is to give an idea of the resources present, to discuss possible effects on the historic property, and propose mitigation.

Dr. Lebo asked if there were any architecture considerations at PARC and if the new Cove Pavilion restroom will visually affect the architectural resources.

Ms. Walden replied there are no architectural historic properties identified at PARC. This was addressed in previous Section 106 consultation; all buildings were previously determined *not eligible* for listing on the NRHP.

Mr. Oliveira requested a definition of architecture and inquired about design of burials and heiau. **Ms. Walden** clarified that the architectural properties that SHPD asked about were limited to buildings, not structures or objects.

Ms. Solis noted that heiau do not typically fall under the category of architecture according to the law.

Mr. Oliveira noted that USAG/SHPD cannot hold us to a process you yourselves do not follow. The last process was painful. Cultural advisors should be present at PARC 100% of time. If no one is there to cry foul, there was no foul. Mr. Oliveira explained this is not about his personal gain; this is about traditional land rights. The contract process and cultural recognition needs a structural change. It is an institutional problem. Need to work together to prevent the issues [i.e. “Seawall Project”] from happening again – it was an emotional experience.

Ms. Solis discussed that recognition of the emotional trauma is key to deconstructing institutional racism.

Mr. Cutschall hopes to take advantage of the opportunity to show that this project can be successful and if possible, the NHO’s involved have access to the project and are part of the process. He stated that Mr. Oliveira would be allowed at the project site at any time.

Mr. Oliveira stated Alton Exzabe (prior USAG-HI Archaeologist) paved the road to consultation for the NHOs. He cared. The job is not done. There is a lot to the process that is not in Section 106. There is much emotion to weave the baskets for his ancestors from the “Seawall Project.”

Agenda Item 4: Questions and Concerns

Mr. Oliveira expressed a desire to include an educational venue at PARC to highlight the history of the land through eyes of his people (NHOs). **Mr. Kila** is a strong proponent of education. A tourist found the petroglyphs at PARC. Why is there no signage? Why is there no education? If [the history] dies now, it does not exist tomorrow. He requested that the modernization of PARC project include an educational piece to educate Native Hawaiians and visitors, and asked to discuss this at a future meeting.

Ms. Welsh requested that there be something in the contract that makes the contractor need to consult with USAG-HI cultural resource representatives if changes need to be made [such as those on the “Seawall Project”]. This will help to remove pressure from archaeologists and cultural monitors.

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Ms. Gilda briefly discussed that USAG-HI is aware of the issue and acknowledges that it was a big failure on the “Seawall Project”.

Mr. Cutschall given the high probability of archaeology/interments at PARC, he requested clarification that Section 106 would provide guidance and establish the requirements regarding the project. Contract language can be added [directly] in the contract as well a chain-of-command list if people need to be called. Clarified if this guidance is provided by Section 106 and is this what gets disseminated to contractors.

Ms. Walden recognized and recorded **Mr. Oliveira’s** concerns and requests but noted that it is illegal show him the actual contract, but can be discussed.

Mr. Oliveira requested to see the contract and structure on paper at the next meeting. It is inexcusable that there is a conflict of interest. Section 106 is separate. There is a NAGPRA [consideration] as well but we are not combining those two processes accurately. We are not giving NAGPRA enough weight. People on the ground need to be listened to by USAG-HI. [The “Seawall Project”] pulled the contract from the cultural advisors while still in possession of their kūpuna remains. This is the crux of his kūpuna issue. **Mr. Oliveira** requested reassurance that NHOs do not have to oversee the project to the letter [as it takes time and money]. There should be trust in the structure and the contract.

Mr. Davis acknowledged that there is room to negotiate the contract and the goal is to come to an agreement. **Mr. Davis** reiterated that **Mr. Oliveira** is requesting some assurance that [the contract] will be implemented accordingly.

Ms. Gilda clarified that NAGRPA is in place [for this project] and will be a component on future projects.

Ms. Hacker asked if there was a change in project scope for the “Seawall Project” and if SHPD was notified. **Ms. Suzuki** stated there was no change in project scope.

Mr. Oliveira stated there was a definite change and explained that the trench expanded from 10 ft. in design plans to 25 ft. and that the cultural advisors understood the importance of the seawall. **Mr. Oliveira** expressed that this was a change to scope and that he did not feel **Ms. Suzuki** was listening or providing him an opportunity to speak. **Mr. Oliveira** expressed his anger and frustration and that he did not agree with the process.

[The discussion was unintelligible and stalled as **Mr. Oliveira** passionately expressed his frustration to the group.]

Ms. Suzuki clarified her understanding that the scope of the contract meant constructing a wall. What was shown on the plan was changed because of safety. **Ms. Suzuki** acknowledged that **Mr. Oliveira** was emotional and requested that he refrain from swearing during the meeting.

Mr. Oliveira stated he does not feel he can consult with **Ms. Suzuki** and that she is afraid of what is being said and that he would object in every possible way.

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[The discussion was unintelligible and stalled as Mr. Oliveira passionately expressed his frustration to the group.]

Dr. Lebo stated that SHPD consulted on the “Seawall Project” and reached concurrence based on the mitigations. If the project then changed, to more than twice length, why was SHPD not notified? That is a much bigger impact. SHPD would like to clarify if there was a change.

Ms. Walden clarified; the width [not the length] was being discussed.

Mr. Davis acknowledged that **Dr. Lebo’s** question is noted for the record and will be addressed separate from this meeting due to time restrictions.

Mr. Cutschall suggested a response tree for human remains that are discovered at PARC. The folks on the ground will know about the response tree. There will be immediate work stoppage [for human remains]. When that process kicks in, additional notifications will be made in an immediate manner to relevant NHOs. If there are changes, the contingency should be detailed out in the contract. To be able to satisfy the NHO and contractor, a clear process needs to be in place.

Ms. Walden asked the group given the current modernization project at PARC and the understanding that there are future projects planned for PARC, what kind of agreement document would be best for this situation. A Memorandum of Agreement drafted per project or a Programmatic Agreement that encompassed routine maintenance projects.

Mr. Oliveira suggested that a Programmatic Agreement (PA) would be best on a 5-year term then re-consult. Everything that is done should be education focused that is **Mr. Kila’s** desire. It is important to be careful with the information, so views are not distorted for other people purposes. PARC was taken by executive order from their family by first cutting off their utilities. Then Military personnel were used to displace them. Please recognize the connection and importance of the land to his kūpuna.

Mr. Davis expressed gratitude to **Mr. Oliveira** for supporting a PA.

Mr. Oliveira stated the need to be self-reflective when the cultural advisors are holding family members in their arms so someone can have vacation.

[**Mr. Oliveira** left the meeting]

Ms. Suzuki asked SHPD if changes to the project scope within the APE are considered a change require consultation. **Ms. Hacker** replied yes and asked if it would be possible to get a map of the “Seawall Project” showing the location of resources with an overlay of project changes.

Ms. Walden stated in closing the USAG-HI would be considering the possibility of developing a Programmatic Agreement. A meeting invite for the second meeting will be sent. Updated maps will be provided and discussion of resolution of adverse effects and NHO concerns will continue.

[End of call]