

**Exhibit 6 – December 23, 2022, APE Letter to the HI SHPD and
Response**

APE Expansion



United States Department of Transportation
FEDERAL AVIATION ADMINISTRATION
Office of Policy, International Affairs & Environment
Office of Environment and Energy

NATIONAL PARKS AIR TOUR MANAGEMENT PROGRAM

December 23, 2022

Re: Continuing Consultation under Section 106 of the National Historic Preservation Act for the development of an Air Tour Management Plan for Hawai'i Volcanoes National Park (HICRIS Project 2022PR00353)

Dr. Alan Downer
Deputy State Historic Preservation Officer
Hawai'i State Historic Preservation Division
Hawai'i Department of Land and Natural Resources
Kakuhihewa Building, Room 555
601 Kamokila Boulevard
Kapolei, HI 96707

Dear Dr. Alan Downer:

The Federal Aviation Administration (FAA), in coordination with the National Park Service (NPS), seeks to continue consultation with your office under Section 106 of the National Historic Preservation Act (NHPA) for the development of an air tour management plan (ATMP) for Hawai'i Volcanoes National Park (Park). The FAA initiated consultation with your office for the Park in a letter dated March 29, 2021.

This letter presents a description of the proposed undertaking in accordance with 36 CFR 800.3(a) and 800.16(y) and a proposed Area of Potential Effects (APE) pursuant to 36 CFR 800.4(a)(1). The FAA specifically requests your comments on our proposed APE.

Description of the Undertaking

Consistent with the National Parks Air Tour Management Act of 2000 (Act), the proposed ATMP for the Park would regulate commercial air tours over the Park or within a half-mile outside the boundary of the Park, referred to as the ATMP planning area. Further background information regarding the history of commercial air tours over the Park, the authority under which they are currently conducted, and the area to be regulated under the ATMP is available in the February 2022 Scoping Newsletter, prepared by the FAA and the NPS (together, the agencies), that was previously provided to your office and is available at the following link:

- Hawai'i Volcanoes National Park: <https://parkplanning.nps.gov/HawaiiVolcanoesATMP>

The proposed ATMP would authorize or prohibit commercial air tour operations over the Park in accordance with the conditions included in the preferred alternative. The agencies are working to identify the preferred alternative for the ATMP. The preferred alternative identified will be the undertaking for the Park. The current draft action alternatives are shown in the table below, and a summary of the elements in each alternative being considered can be found in **Attachment A**. Maps of the revised alternatives under consideration were previously provided to your office in the invitations to the November 21, 2022 consulting party meeting.

Potential Undertakings for Hawai'i Volcanoes National Park

Alternative 2 – No Air Tours in the Planning Area
Revised Public Scoping Alternative 4 – Reduction of Air Tours

Proposed Area of Potential Effects

The APE as defined at 36 CFR 800.16(d) is the geographic area or areas within which the undertaking may directly or indirectly cause alterations in the character or use of any historic properties, if any such properties exist. The proposed FAA and NPS approval of the ATMP does not require land acquisition, construction, or ground disturbance, and the FAA anticipates no physical effects to historic properties. The FAA is therefore focusing its assessment on the potential introduction of visual or audible elements resulting from the undertaking that could diminish the integrity of any identified historic properties.

In establishing the proposed APE, the FAA sought to include areas where any historic property present could be affected by introduction of noise from or sight of commercial air tours as a result of the implementation of the ATMP. The FAA will consider the number and altitude of commercial air tours over historic properties in these areas to further assess the potential for visual effects and any incremental change in noise levels that may result in alteration of the characteristics of historic properties qualifying them for listing in the National Register of Historic Places (NRHP).

Under Alternative 2 (no air tours) it is expected that operators would continue to fly to points of interest on the island outside of the ATMP planning area or continue routes over the Park similar to existing conditions but above 5,000 feet (ft.) above ground level (AGL). Under Alternative 2 (no air tours) and Revised Public Scoping Alternative 4 (reduction of air tours), it is reasonably foreseeable that operators would fly just outside of the ATMP planning area surrounding the volcanoes in order to view Kīlauea crater or any active lava. While operators currently fly along most of the eastern buffer of the ATMP planning area and along the flight paths proposed under Revised Public Scoping Alternative 4, automatic dependent surveillance-broadcast (ADS-B) systems data¹ of flight paths shows an absence of existing flights in a small area to the southwest of the 'Ōla'a Forest tract. It is reasonably foreseeable that if operators are unable to fly within the ATMP planning area, the implementation of the ATMP may result in more flights in this area as they may be able to hover and view the crater.

Therefore, the FAA proposes an APE comprising the Park, areas outside the park but within ½ mile of its boundary, and a small area to the southwest of the 'Ōla'a Forest tract between it and the main Park as depicted in **Attachment B**. This APE encompasses the reasonably foreseeable areas where operators may fly given the implementation of the ATMP and therefore the areas within which the undertaking may directly or indirectly cause alterations in the character or use of historical properties within the APE

¹ ADS-B systems periodically transmits aircraft location data in real-time.

if any such properties exist. The APE extends vertically from ground level to above-5,000 ft. AGL with no upper ceiling to encompass areas where historic properties may be affected by operators flying above the ATMP planning area. In the event that operators choose to fly above the ATMP planning area, they would likely keep to an altitude close to but just above 5,000 ft. AGL, as flights at higher altitudes would provide limited value to a sightseeing operation.

Preliminary Identification of Historic Properties

The FAA coordinated with Park staff and the Hawai'i State Historic Preservation Division (SHPD) to identify known historic properties located within the proposed APE. A preliminary historic properties list for the Park was provided to the SHPD and all consulting parties as part of the meeting materials for the November 21, 2022 consulting party meeting. This list will be updated once the APE is finalized. The FAA has requested consulting party input on the identification of historic properties and potential effects of the undertaking on historic properties within the APE and received several comments during and following the consulting party meeting. Consulting party comments were taken into consideration when refining the APE presented in this letter. The FAA will soon provide a separate response to consulting party input and will include your office in the correspondence.

Review Request

The FAA requests that you provide any comments you may have regarding the proposed APE for Hawai'i Volcanoes National Park within 15 business days as the agencies are working under court supervision and must complete the ATMP for the Park, and all associated compliance, within an expedited timeframe. Please feel free to contact me if you would like any additional information regarding this undertaking or if it would be beneficial to schedule a meeting to further discuss the establishment of the APE. I can be reached by phone at 202-267-4185 or by email at Judith.Walker@faa.gov, copying the ATMP team at ATMPTeam@dot.gov.

Sincerely,



Judith Walker
Federal Preservation Officer
Senior Environmental Policy Analyst
Environmental Policy Division (AEE-400)
Federal Aviation Administration

cc: Stephanie Hacker, Archaeologist

Attachments

- A. Summary of Project Alternatives
- B. Proposed APE Map

ATTACHMENT A
SUMMARY OF PROJECT ALTERNATIVES

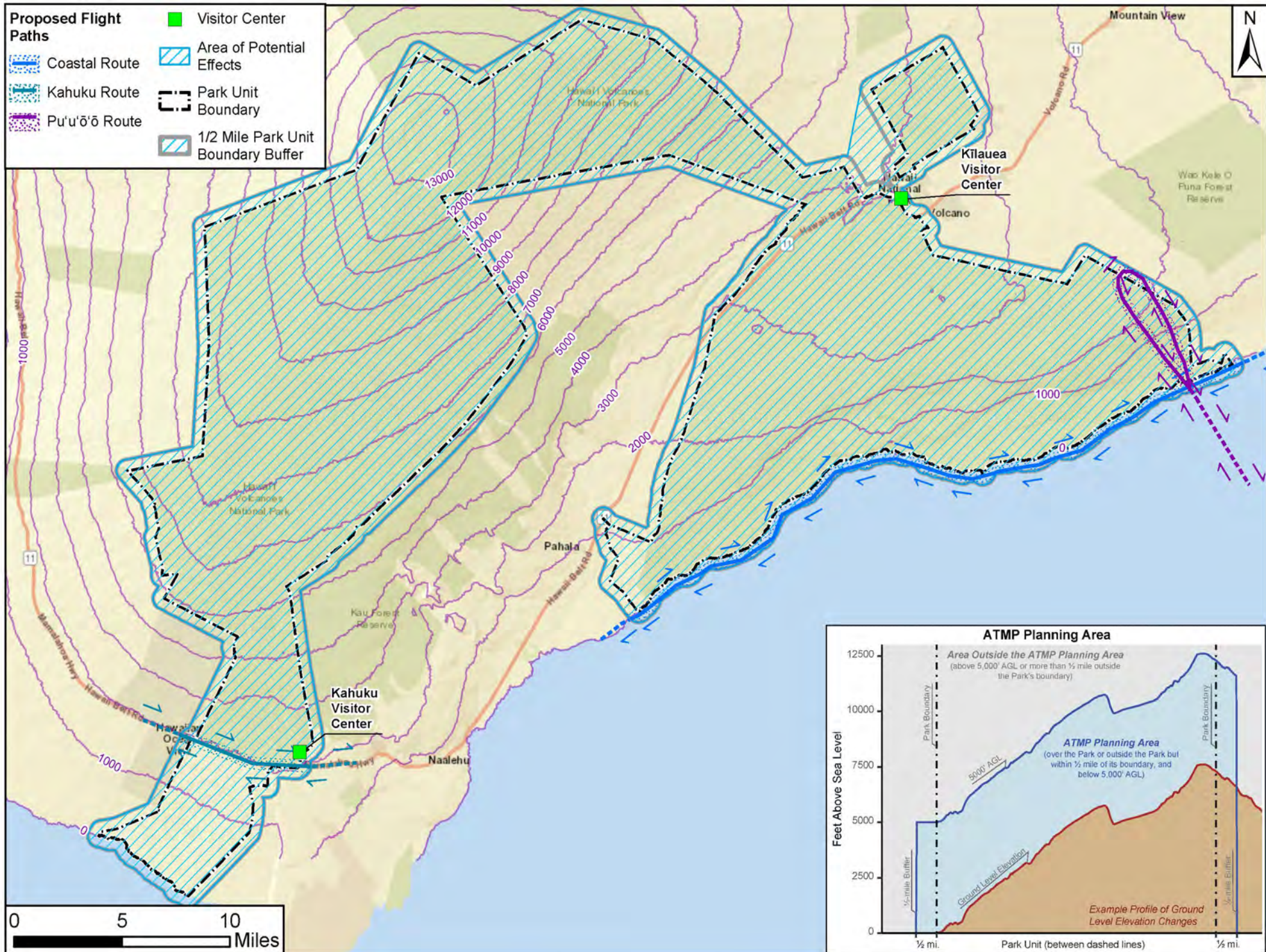
Table 1. Summary Comparison of the ATMP Alternatives for Hawai'i Volcanoes National Park

Alternative Attributes	Alternative 2 (No Air Tours)	Revised Public Scoping Alternative 4 (Reduction of Air Tours)
General Description and Objectives	Prohibits air tours within the ATMP planning area to maximize Park resource protection. Air tours could continue to fly outside the ATMP planning area (i.e., above 5,000 ft. AGL or more than ½-mile outside of the Park's boundary).	Three routes provide air tour access over the Park with soundscape mitigations, while keeping the heart of the Park free of air tours. Avoids flights over the summit of Kīlauea and minimizes impacts on coastal backcountry users.
Routes	None in ATMP planning area.	Three routes (Kahuku route, coastal route, Pu'u'ō'ō route).
Minimum Altitudes	No minimum altitude would be set. However, flights over the Park that are above 5,000 ft. AGL could occur as they are outside the ATMP planning area. The minimum altitude for air tour operations conducted more than ½ mile outside the Park boundary would be 1,500 ft. AGL unless the operator has OpSpecs B048 (air tour operations below 1,500 ft. AGL in the State of Hawaii), in which case the operator must comply with the requirements and procedures of the Hawaii Air Tour Common Procedures Manual (HI Manual) for conducting commercial air tour operations below 1,500 ft. AGL. ^(OBJ)	Minimum 1,500 ft. AGL; minimum 2,000 ft. AGL over wilderness areas and sensitive sites. Flights more than ½-mile outside the Park boundary are similarly outside the ATMP planning area and are subject to the altitude requirements and procedures of the HI Manual.
Time of Day	N/A	10 AM – 2 PM for non-QT flights. 9 AM – 5 PM for QT flights.
Day of Week	N/A	No-fly days on Sunday and Wednesday.
Loitering/ Circling	N/A	Permits limited loitering/circling (e.g. 3-5 minutes) from the Pu'u'ō'ō route.
Quiet Technology (QT) Incentives	N/A	QT flights may fly 9AM - 5PM QT flights may fly on Wednesday Additional fly locations in the Pu'u'ō'ō viewing area for QT flights.

Interpretative Training and Education	N/A	Mandatory.
Annual Meeting	N/A	Included.
Restrictions for Particular Events	N/A	Mandatory 5-mile standoff distance (within the planning area only, does not extend outside planning area). Two months' notice provided to operators.
Operators, Initial Allocation of Air Tours, and Aircraft Types	N/A	The initial allocation would reflect the proportional number of air tours reported over the Park and the existing aircraft types of each of the seven operators that have reported operating in the period from 2017-2019. Then it would move to competitive bidding.

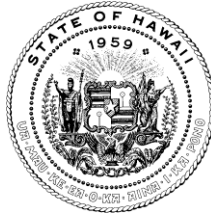
ATTACHMENT B
PROPOSED AREA OF POTENTIAL EFFECTS MAP

Area of Potential Effects at Hawai'i Volcanoes National Park



JOSH GREEN, M.D.
GOVERNOR | KE KOA'AINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'AINA



**STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES**

**STATE HISTORIC PRESERVATION DIVISION
KAKUHIHEWA BUILDING
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DAWN N. S. CHANG
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FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

January 24, 2023

Judith Walker
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Senior Environmental Policy Analyst
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United States Department of Transportation
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Email: judith.walker@faa.gov
Electronic Transmittal Only, No Hard Copy to Follow

IN REPLY REFER TO:
Project No.: 2021PR00353
Doc No.: 2301SH06
Archaeology

Dear Judith Walker:

**SUBJECT: National Historic Preservation Act (NHPA) Section 106 Review –
Continued Consultation and Request for Comments on the Area of Potential Effects
Air Tour Management Plan for Hawai'i Volcanoes National Park
Humu'ula, Kahue, Kealakomo, Lac'apuki, Pānaui-iki, 'Āpua, Poupou 1-2, Pūlama,
Pānauinui, Kamoamo, Kahauale'a, Kaulanamauna, Kapu'a, Anapuka, Ho'opūloa, Pāpā 1,
Pāpā 2, 'Alikā, Kīpahoe, Ka'apuna, 'Ola'a, Kea'au, Kī'ao, Kamā'oa, Pu'u'eo, Ke,
Pākiniki, Pākininui, Pu'ulena, Waiomao, Kiolaka'a, Pu'umaka'a, Manukā, Wai'ōhinu,
Ka'alāiki, Hi'ona'a, Pā'au'au 1, Palima, Halelua, Wailoa, Kumu, Kea'wa, Pā'au'au 2,
Ka'ala'ala, Kanaio, Wailau, Nīnole, Ka'a, Kahuku, Kapāpala, Keauhou, Ka'ohe Mauka,
Kī'ilae, Keālia 1, and Keauhou 2 Ahupua'a
Hilo, Puna, Kona, Ka'ū, and Hāmākua Districts, Island of Hawai'i
TMK: (3) 1-9-001:007**

The State Historic Preservation Division (SHPD) received a letter dated December 23, 2022 from Federal Aviation Administration (FAA) to continue the Section 106 historic preservation review process and to request the State Historic Preservation Officer's (SHPO's) comments on the Area of Potential Effects for the Air Tour Management Plan for Hawai'i Volcanoes National Park on the island of Hawai'i. The SHPD received this submittal on December 23, 2022 (HICRIS Project No. 2021PR00353.007).

The Federal Aviation Administration (FAA) and the National Park Service (NPS) are developing Air Tour Management Plans (ATMPs) for 23 parks including Hawai'i Volcanoes National Park (HAVO). ATMPs apply to commercial air tours flown at or below 5,000 feet above ground level in, and within, a half mile of the park boundary. The ATMPs are being developed in accordance with the National Parks Air Tour Management Act (NPATMA). NPATMA directs the agencies to either enter into voluntary agreements with air tour operators or establish ATMPs for national parks and adjacent tribal lands where commercial air tour operations are conducted or proposed, subject to certain exceptions not relevant here.

The proposed project has been determined to be a federal undertaking as defined in 36 CFR 800.16(y) and is subject to compliance with Section 106 of the NHPA. The FAA is acting as the lead federal agency for this undertaking. The FAA initiated Section 106 historic preservation review process with the SHPO in March 2021.

The FAA states the proposed FAA and NPS approval of the ATMP does not require land acquisition, construction, or ground disturbance, and the FAA anticipates no physical effects to historic properties. The FAA is therefore focusing its assessment of the APE on the potential introduction of visual or audible elements resulting from the undertaking that could diminish the integrity of any identified historic properties. In establishing the proposed APE, the FAA sought to include areas where any historic property present could be affected by introduction of noise from or sight of commercial air tours as a result of the implementation of the ATMP. The FAA states it will consider the potential for visual effects and any incremental change in noise levels that may result in alteration of the characteristics of historic properties qualifying them for listing in the National Register of Historic Places (NRHP).

In response, the SHPD offers the following for consideration. Consulting party comments during recent consultation for this project raised concern with how the audio and visual effects from commercial air tours may affect Hawaiian practices. Therefore, it is important for an undertaking such as this, that the agency also take into consideration intangible resources, more specifically traditional cultural properties, which may not yet have been identified and which could be affected by the proposed undertaking.

The FAA proposes an APE comprising the HAVO Park, areas outside the park but within ½ mile of its boundary, and a small area to the southwest of the 'Ōla'a Forest tract between it and the main Park. The APE extends vertically from ground level to above 5,000 feet.

Based on the information received, SHPO has no objections to the APE at this time. However, the SHPO looks forward to receiving documentation of comments received from consulting parties regarding the APE, and the FAA and NPS's response to comments.

Please submit all forthcoming information and correspondence related to the subject project to SHPD via HICRIS to HICRIS Project No. 2021PR00353 using the Project Supplement option.

The SHPD looks forward to continuing the Section 106 process for the proposed project.

The FAA and the NPS are the offices of record for this undertaking. Please maintain a copy of this letter with your environmental review record for this undertaking.

Please contact Stephanie Hacker, Historic Preservation Archaeologist IV, at Stephanie.Hacker@hawaii.gov or at (808) 692-8046 for matters regarding archaeological resources or this letter.

Aloha,

Alan Downer

Alan S. Downer, PhD
Administrator, State Historic Preservation Division
Deputy State Historic Preservation Officer

cc: ATMPTeam@dot.gov