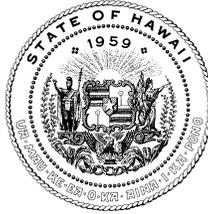


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LAND  
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STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE HISTORIC PRESERVATION DIVISION  
601 KAMOKILA BOULEVARD, ROOM 555  
KAPOLEI, HAWAII 96707

HAWAII ISLAND BURIAL COUNCIL  
MEETING MINUTES

**DATE:** THURSDAY, JUNE 21, 2012  
**TIME:** 9:30 A.M.  
**PLACE:** NATURAL ENERGY LABORATORY HAWAII AUTHORITY  
73-4660 QUEEN KA'AHUMANU HIGHWAY  
KAILUA-KONA, HAWAII

**HIBC MEMBERS:** Kimo Lee, Landowner/ Developer Council Chair (Expiration 6/30/13)  
Leningrad Elarionoff, Kohala Representative (Expiration 6/30/13)  
Edwin Miranda, Hilo Representative (Expiration 6/30/14)  
Keith Unger, Landowner/Developer Representative  
Ku Kahakalau, Hamakua Representative (Expiration 6/30/12)  
Gene "Bucky" Leslie, Kona Representation (Expiration 6/30/12)

**Absent / Excused:** Charles Young, Landowner/Developer Council Vice-Chair (Expiration 6/30/12)  
Dutchie Saffrey, Puna Representative (Expiration 6/30/12)  
Maxine Kahalelio, Waimea Representative (Expiration 6/30/15)  
Pele Hanoa, Ka'u Representative (Expiration 6/30/13)

**SHPD Staff:** Kauanoë Ho'omanawanui, Hawaii Island Burial Sites Specialist  
Kawika Farm, Burial Specialist  
Mike Vitousek, Hawaii Island Lead Archeologist  
Hinano Rodrigues, Maui Cultural Historian/ Acting History & Culture Branch Chief

**Guests:** Sara Collins; Pacific Consulting Services, Inc. (PCS)  
Steve Clark; Pacific Consulting Services, Inc. (PCS)  
Stephanie Nagata; Office of Mauna Kea Management (OMKM)  
Isaac & Tammy Harp, Makani Hou O Kaloko-Honokohau  
Alan Haun & Associates  
David W. Shideler, Cultural Surveys Hawaii, Inc. (CSH)  
Auli'i Mitchell, Cultural Surveys Hawaii, Inc. (CSH)  
Chester Koga, RMTC  
Sal Panem, Hawaii Department Of Transportation (HDOT)  
No'eau Peralto, Descendant in Kukaiaiu  
Sterling Chow, HDOT  
Tamara Koermer, United States Coast Guard (USCG)  
Gene Maestas, United States Coast Guard (USCG)  
Lehua Kamaka, Descendant in Kaloko/Honokohau/Ahuena  
David Deluz Jr., Deluz Corp. (DD)  
Jim Medeiros, Protect Kepuka 'Ohana, Nauana Council (not signed in)  
Aka Mahi (not signed in)  
Hannah Reeves (not signed in)

## **I. CALL TO ORDER**

The Hawaii Island Burial Council (HIBC) chair, Kimo Lee called the meeting to order at 9:34am.

## **II. ROLL CALL/PULE**

Council members Kimo Lee, Leningrad Elarionoff, Edwin Miranda, Kieth Unger, Ku Kahakalau, Bucky Leslie introduced themselves. From the State Historic Preservation Division (SHPD), Kawika Farm and Hinano Rodrigues introduce Kauanoë Hoomanawanui. Mike Vitousek introduced himself.

## **III. Approval of Minutes**

**April 19, 2012.**

**Lee moved and Kahakalau seconded, “move for approval”.**

Elarionoff asked that the last 2 pages, the roll call and sign in page deleted.

**Motion carried unanimously.**

## **IV. New Business**

### **A. Draft Burial Treatment Plan for SIHP # 50-10-27-22415, Honokohau 1<sup>st</sup>, North Kona District, Hawaii Island, TMK: (3) 7-4-008:999 (State Right-of-Way) and 010 ( Kaloko-HOnokohau National Historical Park). Information/ Recommendation: Introduction and discussion of above plan.**

Hawaii Department of Transportation(HDOT) Highways division Sal Panem the district engineer went over the burial being found in the AIS for the widening project. They would like to recommend preserve in place with construction to protect the burial. Hired consultant David Schideler from CSH brought on to project to address supplemental graphics of a visual preservation plan that is passive preservation. Due to unusual burial circumstances no signage, no vegetation, and no marker near burial. Outreach for descendants include six kamaaina families, consulting in the greater Kaloko area is referenced in further conclusion. 20 ft. buffers zone no construction, no disturbance, and no impact. Construction of retaining wall area has a change in slope immediately to the mauka ridge. Queen Kaahumanu side is close to grade. Makai wall will be free standing. Mauka of NPS lands introduce a concept passive preservation additional 4ft chain link fence to catch litter. It is free standing at both ends. Wind born litter’s first line of defenses for buffer zone of kupuna. Also included is a slight casual pedestrian access.

Kahakalau directed to HDOT how much more widening would there be, as far as widening a 300ft right of way? In response Panem articulated, future improvements will occur in the area and immediate construction will be pushing makai side. If 6-lane the east side widening will be on mauka side if any new widening will occur.

Elarionoff asked what sub-meter gps is and CSH responds that locating the site with accuracy with less than one meter. However we are not professional surveyors. Once the BTP is complete a professional surveyor will record metes and bounds. We have located the burial site with an accuracy of less than one meter. . Consultant has specifically requested that no plants be added to the burial site area. Elarionoff asks if the families are all in support and CSH responds yes, thus far to our knowledge. Elarionoff addresses the retaining wall that’s to be in placed mauka of the burial site buffer with a 20ft buffer and 6 foot buffer with a chain link fence 6ft after that. This plan seems to call lots of attention as compared to your suggestion of less attention.

Miranda added geo mat or something? HDOT said geo mat would be placed in the embankment so the wall doesn’t roll down. If just placing embankment it may erode down. We want to stabilize the shoulders to put in mechanical means. Also it will be placed by machinery when we embank the slopes.

Additional corrections addressed by Elarionoff reference to pg.40, 4.44.4, maintenance will be followed and HDOT will remove any litter from the burial site. The NPS will have a 15-day advanced notice prior to the annual inspection. Another thing on page 43, Rechtman is cited and it's not here in references cited.

CSH accepts and will make corrections. Elarionoff thanks the Chair.

Lindsey addresses the interview transcript and questions the use of initials such as CN, ML, who is this and why is it like that. CSH responds that the informants requested it that way. Lindsey reiterates that the use of acronyms should be defined at the beginning when later referenced. Lee responds reference on page 1. Lindsey rather see the bold letters at the front. Again to reference of the informants, who knows who these people are at what they reference in regards to this plan. CSH can generate a list of acronyms and Lindsey responds, lets make this book pono.

Kahakalau found historical context of the property absent. Normally in BTP we have a section where you can see it. The historic description including the land Mahele, how did the US al of sudden own this land? On page 6 I don't see land ownership.

Lindsey inquires the ongoing descendancy claims with CSH and in reply CSH is in round 2 of cultural and lineal descendant claims. CSH offers SHPD to correct and Hoomanawanui states the contact info on notices put out by their firm have been incorrect. Advising the timeline to date limits the 2<sup>nd</sup> round descendancy claims collaboration and please correct public notices.

Also added by Lee was the question of the burial being part of a larger complex. CSH replied that there are other sites within the vicinity but the only burial site to our knowledge. Lee suggests if the cultural significance led to include barriers. To conclude CSH points out the complete and accurate answer to Lee's question is on the 1<sup>st</sup> page and you will see that there are a number of modest site with a specific treatment including data recovery, 2247, 22418, located approximately 100ft to the southeast of the burial.

**No motions made.**

**Lee opened the floor to Public Testimony.**

Hannah Reeves introduced herself and state on behalf of my family, we are living descendants and is amazed that they don't have a list of descendants from mauka to makai..

Aka Mahi introduces himself and states; this map says we are not America. How many lanes are being planned, to the left or right? 2-lanes are good enough; if there are too many lanes they will take a snip at my iwi kupuna. Leave the iwi kupuna in place, the problem is everyone coming over here.

Isaac "Paka" Harp introduces himself and begins with the outreach effort to contact descendants of the area. The NPS has a list of lineal descendants and cultural descendants and because the boundary is on the park. CSH performed interview with kamaaina kupuna and the kupuna have remained anonymous, why is that? CSH did contact me in my mana'o with the protection of burial sites. There are three additional sites within this project area that I have concerns with. We do not want any digging and they are digging and excavating in that area. The highway design calls for four lanes expanding two to four lanes but make it wide enough so that they may add more lanes in the future. They will be impacting the cultural sites on this section so please move the 20ft mauka highway footprint makai as much as possible. 20 foot base to the utility post and preserves lanes in place and develops makai. Reduce the 20ft impact to the burial areas, narrow the median. I recommend they attach wire mesh that will camouflage not to extend above the railing. The wire mesh should extend 100 ft north and south of the burials similar color to the lava rock. No intent of chain link fence. The burial is 140 ft within the existing pavement. How will the compacted gravel be mechanically stabilized, in preventing run-off to prevent Kaloko pond from getting infected. I support the minimum 25 foot buffer in last consultation and primarily concerned with the three additional sites. I am currently working on sealing the cave but extensions have collapsed. The iwi is in the little trench within the cave so possibly put in a long-term seal.

Kahakalau states we have never allowed grading to happen this close to a burial site. We have 50-100 ft buffers as far as grading and heavy equipment. The lava tubes may lead to a surprise. The permanent buffer and 6ft going up, and questions why the 6ft or 7ft with inconsistency between retaining wall and buffer. CSH answers the 20 ft buffer

is a pre-exclusion no construction. The concept of 6 ft is in establishment of a barrier more mauka of the highway. The structure to retain the soil has not been resolved and welcome comments. HDOT agrees that the construction area is going to be 6ft. Kahakalau responds to HDOT that the 6ft is to be included in a temporary construction area. Also adding that there is no proper soil and why is it necessary to make it 20ft to the retaining wall. No one belongs there except for descendants. In regards to CSH interview documentation, I have never seen this style before. Recommending a 25-36 ft permanent buffer after the construction is finished. Having grading this close is a concern. HDOT states they will be returning before the council again.

Lee asks where are the other complexes and Paka replies that its makai side and are three more similar platforms in the right of way area.

Leningrad says the bigger the equipment the better. The excavator has a reach so can put equipment farther away. To put things in place, it would be better and agrees with the idea of mesh along the guardrail.

Lehua Kamaka introduces herself in behalf of her ohana as she is a descendant to Jacob Palakiko Kama, also her great tutu's sibling is Kaakau. In response to the newspaper burial notice I have contacted the SHPD office but ran out of time to file a descendancy claim prior to this meeting. In a BTP for the Kaloko trial there where only 7 and our family surveyed after and found over 50 burial sites. More history of the area is needed with the development. Lee addresses that they attempt to identify the burials in the preservation plan. Kamaka replies that her family is not present in the room for consulting in development. I agree with the stone wall and no to the chain link fence.

Tyler Campbell introduces himself on behalf of National Park Service regarding questions that I've heard. Most comments have been addressed which include providing the descendants opportunity on the figures of what the site will be composed of the treatment plans. Also there hasn't been a good faith effort in consulting descendants. We have offered our assistance and today they will take us up on that offer. Lindsey asked if NPS has a list of descendants of the area Paka responded, in protection the consultation process on both sides of Ahupuaa descendants. Makani Hou created 3 years in an effort with the consultation in the NPS along with coordination with Order of Kamehameha O Kona, Kona Civic Club, Nakoia Foundation. Lindsey asked if NHO such as these get the relevant info, and many are not contacted to be involved. Paka replied that they are all working together on this.

Tammy Harp introduced herself as a descendant and has been exposed to impacts. My concern is the highway and the habitations on the makai side so please move highway mauka. We don't need a 6-lane highway it is only for convenience. The prisoners should build roads since they only watch tv and eat three meals a day.

**Chair Lee called for a 5 minute break.**

#### **IV. New Business**

##### **B. Draft Report, A Burial Treatment Plan for Burial Sites in the Mauna Kea Science Reserve and the Mauna Kea Access Road Corridor, Kaohe Ahupuaa, Hamakua District, Island of Hawaii, TMK (3) 4-4-015:009 and (3) 4-4-015; por.01.**

S. Nagata of the Office of Mauna Kea Management (OMKM), Steve Clark and Sara Collins of Pacific Consulting Archeological Firm (PCS) introduced themselves and the draft BTP which includes the summit, access road and area around of Hale Pohaku, a visible facility. Unlike most BTP's that come to this council usually associated to construction or development project. A management recommendation that was made in our CRM and our Comprehensive Management both were approved by DLNR and OMKM is implementing those plans which include this BTP. PCS did the AIS of all the OMKM.

PCS announced the purpose of the plan is in part to fulfill the Comprehensive Management and the Cultural Resources Management Plan. Since burials were acquired during the AIS, we abide by Chapter 13-300, no development or construction. The purpose is to protect this site. The requirements proposed in the Comprehensive Plan. The elements are different than the BTP you have seen before you. No burial sites documented in the two of three areas, one of which is around the area of Hale Pohaku. 2 other acres MKSR, 2088 acres included summit region and Mauna Access Road Corridor. A 400 ft wide corridor encompasses the side of the access road. Total acreage 70.8 acres according to state survey documents. Both were surveyed by our company as the AIS and the SHPD approved those in 2010 which are attached survey documents. The land currently owned by the State and leased from DLNR by the boards action agency lease. 65 years leased to UH and IMKM is the UH agency responsible for managing the lands under that lease. Our survey recorded a total of 34 burial sites and 31 in the main

large science reserve and 3 burial sites in Road Corridor area. The 34 features being probable burial all of the 31 in science reserve considering to be contributing properties to summit region to historic region. The 3 burials in the corridor potentially are contributing properties to the Historic region. Deemed significant fewer than 3 and d. Fig 4 in plan provided has the locations of the burial sites we documented as you can see there pretty remote. One exception relatively near where visitors might frequent when they go to the summit region. All burials in BTP are traditional, a number of them are pre-contact, don't know for sure, no testing or anything like that, nothing to indicate they are recent they are historic, we proposed short term and long term measures. Only 3 sites will be subject to short term measures which are suppose to be if approved by everyone it would be to secure human skeletal remains that are scattered and exposed and to secure on sites using materials on those sites and not do anything else at all. Only exception would be piling up boulders or cinders, no equipment. Very remote areas can't even bring a shovel. Those measures would only apply to 3 sites in 2006 skeletal remains were seen on the surface. We don't know today's condition, things could have changed. We didn't test the sites. Don't feel its necessary given out observations. We previously went over an earlier version of the BTP with the Kahuku Mauna Council, provided suggestions. BTP includes there recommendations that were made earlier this year. The long term measure proposed is preservation in place and periodic inspection of the site of Archeological monitoring program is instituting. Provisions for perpetual access in cultural and lineal descendency in accordance 13-300, 13-5 conservation activities. Work within that. With regard to descendants placed adds in star Hawaii today Hawaii tribune and kawai ola. Our research into land use history did not turn up any land commission near summit. Four within Kaohe but are found at a lower elevation. To date we have been contacted that indicated they have descendant ties to the land. There paper work on file with state so provided the contact for SHPD. Dr Aiu. That has changed in the months. Long term measure, site near where visitors, that site is recommended to have regular monitoring. SHPD might be able to share if got any updates with that.

Miranda added what page? And PCS replied on pg.14, description of measure is on pg. 15. Puu Wekiu is recommended for regular monitoring because of proximity to summit. Our survey recorded GPS data for all burials. Description of survey repost is on file with SHPD. Other element to add that's different BTP. For future inadvertent and establish of re-internment site. The comprehensive plan requires these elements although not part of BTP. In inadvertent any determinations of treatment will be made with SHPD in consultation with OMKM and Kahuku Mauna and OHA and SHPD and recognized descendants. Inadvertent will be document to include GPS and descriptive info and photos. If skeletal remains exposed by natural causes. SHPD will determine the treatment of exposed remains. That's basically it the internment might be desired that does come up in comprehensive plan. The recommendation here is that re-internment site to be established can only be done in accordance to Conservation rules 13-5 and concurrence in Kahuku Council OMKM and SHPD and re-internment must be recorded with GPS and detailed descriptions including photos and info on file at OMKM and SHPD so no chance of sites being lost. That's about it. Steve Clark: site descriptions in appendix C. biggest section in the BTP. I manage the cultural resource group.

Miranda asked who the owner of the land is and PCS replied the State of Hawaii, not sought out of Bureau of Conveyances. Miranda asked again if they could produce a deed.

Unger questioned the re-internments in discussion. PCS answered the contingency but not apply to burials in survey applied to future finds and might need to be buried different from where they have been found. I guess if there was an earth quake.

Kahakalau reiterates 2000 acres is a very large area and the cultural context includes an extremely sacred nature. This may be sufficient for BL but is not the same for me. This BTP needs include historic examples of Hawaiians then and Hawaiians now. It needs a lot more, rather just putting down pg.7 need more info there. Land use, you have that part there; land can be used in multiple ways. The concept of piko to be taken to Mauna Kea, consider that land use. There are many practices continually active up Mauna Kea. Pg. 9 has burial practices in Mauna Kea. See discussion of Pat in 1982. There are numerous references to human burials at high elevations need to be addressed. There are a lot more research done on this. Kepa Maly did other things. We need more info and background with scientific research. I'm not requesting you to do it but at least give good picture of what is telling us about this specific area. On pg.10 you say that you have indication so I'm missing that. Did someone come forward or not? PCS adds we didn't make statement of the person who contacted us and we don't have an outcome to that. Kahakalau asked if any descendants came forward and PCS replied that there are definitely descendants. PCS is aware of groups and they have not come forward for the burials outline in this report. Kahakalau also inquired the possibility of having more burials and PCS agreed there could be many more. Kahakalau asked how long ago the inventory began. PCS answered 2005 discovered and completed in 2009 and them back in 2010. Kahakalau

explained in 2006 Bishop Museum had called them exposed. But now there getting protection and preservation. The issues are that it's a remote area. There could be scientist to come across this for another reason. The exposure of iwi in practices is a problem. It's not your problem but in the case something should happen upon exposure. I don't believe these are the only bones out there. I would like to see a very clear plan and any descendants as quickly as possible anything that's exposed can be covered up. That's something I didn't see. PCS reminds Kahakalau that on pg. 15 and she replied it has inconsistencies in it. There are some exposed bones right now. PCS replies that we found them during survey 2006 but law says we can't touch them when we find them during survey and notify state and report was reviewed and everything. Kahakalau emphasized the laws aren't what guide us our common sense does as override any law. The other part has to do with the access. Pg. 15, bullet 7 from the top. All recognized descendants shall have access. Except the stipulation below the access of archeology and culture shall be granted case by case and have real big issues with that. Who plans that permission, is it the KKMC is it the BC is it the descendants. I extremely don't approve a plan like this. A statement research of archeology of digging and cultural but the research we have never had that in any burial plan. I have big issue on this burial. You make that decision and that would not be a good thing. It's arbitrary. Access to various sites on research purposes must be preceded by consultation. If I am a recognized I shouldn't have to consult to visit my kupuna. If recognized than actual plan to give access. Adjustments there bullet 1 and bullet 3 because of the treatment of different burials to be in line with whatever practice we going to have whenever iwi comes up. Access by appointment only, letting be people no that we going up into these areas. PCS refers to no descendant access, public people and it visits need to be a specific time. Kahakalau insisted burial practices are to be in puu as we have them all over. Put it in there because these puus will be noted as this is one of our ways to bury human skeletal remains. PCS elaborated with comparative information as the last bullets where you took issue on the research purposes were added in consultation with Kahukumauna council. We added this really trying not to exclude researches and in particular native Hawaiian scholars thru UH who may want to visit Mauna Kea because it's a pristine culture of landscape. Council doesn't want to be excluded that should be clarified. Kahakalau concludes to say we are here to protect the bones. To afflict or disturb up there in there original resting place. If you think archeologists to pick up all the skeletons so people can do things to them. PCS reiterates that we are the same side. They disturb the bones. Our kuleana is to make sure that doesn't happen. Just like you heard in the early case. If it looks smells like a burial cave because the chances are you going to go look. Cultural research count bones as long as they don't touch anything. PCS incurs Archeological is not limited to excavations. In fact since Pat Mc Coy Dr. started his archeological upon Mauna Kea early 1970s a decision and that commitment has come to 2012 that burial sites and possible sites will not be excavated. Perhaps we should clarify that here. I appreciate your concern but want to also go out in the perspective that archeology research doesn't have to be subsurface. Native Hawaiian cultural and other cultural burials will not be excavated. Kahakalau responds that PCS spells out that you will not be excavate.

Miranda states when deceased are back in ground that's final thing. No ground disturbance and I don't know if scientist should go. Final resting place is set leave them there and preserve in place.

Leningrad continues to say 80 years from now we will not be here. Your monitors are allowed to immediately cover the remains. If I was a descendant I wouldn't appreciate if other people investigate. PCS adds we are hoping descendants come forward. Expose remains should be covered is imperative

Kahakalau adds, couldn't agree I understand of the modern and traditional. Cultural monitor basic training. The remoteness of the area is 2days out of anywhere and then come across that. It's in the same place 6 years after. If we can cover it and descendants want to do rituals is still an option. Just get the bones covered.

Jimmy Mederois asks if there is no one to come forward in descendency claims and no NHO have stepped forward to claim the iwi. I'm stepping forward right now to cover the iwi.

PCS clarifies there will be new burials to due to the erosion and there are no inadvertent at this time. We have our rangers to monitor.

Miranda questions, which one of you have been up there, we better make a trip up there no ifs ands or buts.

Kahakalau states there is nothing that prevents you from not including the present day that it could be done and not illegal. Any burials found after the approval of BTP shall be treated in the same matter. Now where does it say you can't do that? The inadvertent laws are for different areas such as developers. Very different relationships with these

burials and therefore I consider putting something about and as currently labeled as inadvertent. They were not put there on accident. So that they can take care of it in a timely matter and initiate a process that is not working.

PCS suggested the law is clear, we can be prosecuted by state for altering burial sites. Lee added the immediate action of using tarp and rocks and maybe more interaction with cultural groups to figure it out. PCS answers the clear law of inadvertent discovery and it would be great for some legal way of SHPD to agree yes this is the procedure they will follow in these instances. If that's ok that's a great idea. People don't like the idea of remains being exposed. Our hands are tied. Kahakalau reminds PCS of the Hokulia case as the judge ruled that this is possible. You wouldn't be the first people doing this and there is legal precedent. Leningrad added wouldn't you feel good for doing such an honorable deed. PCS replied I can think of few other things to do. Lindsey put forward the idea of informing groups.

Hinano Rodrigues introduced himself affirmed number one discretion you use as a cultural approach Kaimiokala, I am surprised this is going on this island. On my island of Maui there is an agreement even though it's not written between me and my archaeologists. I don't care what, you cover it up. I don't see any reasons seek any kind of stand. PCS agreed, maybe we confirm that with Dr. Aiu. Rodrigues responded further that calls on a Saturday and cell doesn't catch then the Archeologists know to cover it up and when in cell service area can return call.

PCS closed by thanking the council members for there public service

Lee asks the public if any more comments.

Jimmy Mederois adds the developer, archaeologist and the descendant. So that in a hostile situation we cant trust if they covered it up or not. Not everyone can handle the bones. One archaeologist might or might not have an honest ethic. I advocate for the archaeologists to try and reach out to the small kupuna and to step forward and care for the iwi. Miranda suggested hostility, cultural malice, or if there is good intent in what we do. Lindsey hints there are still others who are not right. They are going to come back and bang on us and that's were the hewa starts.

Lee closes the discussion with asking for anymore public testimony.

### **C. Letters Dated May 3, 2012 and June 4, 2012 Regarding National historic Preservation Act-Section 106 Consultation for the U.S. Coast Guard Rescue 21 Program's Remote Fixed Facility Iolehaehae Project in the County of Hawaii, HI.**

United States Coast Guard representatives, Commander Tamara, and LT. Gene introduced themselves and wanted to apologize for this being the first time meeting the USCG. We understand how important it is to be face to face. It's important I have learned a lot today. Our goal today is to make sure the USCG is before with life and that we can hear your concerns and concerns of the descendants and we can carry that message to Washington DC on the project we call Rescue 21. So in order for the USCG to meet its kuleana a consultation "after the fact" the construction at this site is already complete. We would like to offer what these letters refer to is a technical report provided by a state dept approved archeologists that would cover the entire area of a .5 radius of Iolehaehae tower and that would include post consultations to include State and descendants and a field surface survey. The USCG is proposing that. It is to be in radius of .5 of the site. Which is much larger area than the area we disturbed? Finally I would like to offer the council is that USCG and State feels Rescue 21 is very important and responsible of saving NH man off of Oahu. It had not had that system in place last month we wouldn't have known where he was. We sent a boat and helicopter and he is alive today. In addition to that very dramatic case the system is contributed to 36 other rescue cases activated in April. We hope the council and descendants to work with us so tell us your concerns so we can address the kupuna.

Kahakalau would like to USCG to explain to us the history of this area because we have new members and some have had no privilege and have no idea what you are talking about. Name the place and what you did there and what are doing do there. If we could back this up a little bit and start with USCG where tower located is. What doing and what are you suppose to do there. What are the impacts and what is offered to the community?

Commander responded I am not with Rescue 21 I work with district 14 commanders. I will provide to you a brief summary detailed to me by people on project. The project is to use coastal protection. 2008 the program office is in Arizona and contractor was evaluating the site especially the Iolehaehae. A potential location of the existing tower

that is run by Crown Castle they lease that area on the northeastern coast of the Big Island. So in July of 2008 they determined that they did some sight surveys in conjunction with Crown Castle to see if it meets USCG needs to put up antenna. Sept 2008 they chose that site. A full site survey was done in October 2008 by the USCG regional manager, environmental staff, General dynamics Contractor and their subcontractors. In 2009 Crown Castle who we rent space from decided that the 80 ft antenna was insufficient. So antenna was heightened to 120 ft. in support to this they put guy wires to support. Prior it was self supporting. In Oct 2009 and at that point the USCG environment division received the following. They did the phase I due diligent audit for contractors of USCG. They determined a real estate liability and that was done in late part of 2009. In 2010 the environment staff and real estate specialists determine who owns that land and how would government use the land negotiate. They went to Environmental Due Diligence Audit (EDDA), a Phase I and a Phase II. They reviewed and accepted that phase two audits in 2010. An environment checklist and reviewed October 2010. At that point the project folks were also researching the database for historic places. They researched NPS database and NRHP and State Of Hawaii State Register Historic Places and the Bishop Museum database.

Unger questioned the archeology in environment in the studies and who was in part? USCG answered no boots on deck and that the database review was for audit and no archeologists on deck. Miranda added is this an optimal site for USCG? Commander answered with the May 2010 database review no historic properties of one nautical mile. The federal government and my best understanding and I'm not an expert of the federal government or any historical properties. No families came forward so we can issue category exclusion CATX issued in May 2010. The environment staff and supervisor that NHO group between May and December 2010 late in 2010 they were notified by supervisor NHO group contacted landowner. NHO group approached the construction on burials. About that same time that NHO group with meeting on site with DLNR and also rep of private land owner who was developing a burial treatment plan in that day. 2011 and at that point Crown Castle whom is the person who owns the antenna the lease from and contact archeological and conduct archeological monitoring while trenching guy wires and generator and USCG antenna. The report from the archeologists on site during construction reported no artifacts or human remains during exploration reported in 2011. In July 2011 the USCG received the Crown Castle archeology monitor program and letter from Aila of DLNR. These which should be located in state files and now we are in July. Kahakalau suggested if Commander could summarize the letter. Commander replies the concern of the letters describe that there was a family identified with the site and they have not been consulted. The USCG acknowledges those letters. In August 2011 the USCG from Aila stating that a section 106 had not been completed up to that point. The USCG already completed construction. In September 2011 the rescue 21 manager and USCG environmental staff with conference with SHPD on phone and that point they discussed an after the fact 106 consultation. SHPD and SHPO/Aila agreed that the Rescue 21 would enter with an after the fact which would result Rescue 21 project in providing a technical report. Native Hawaiian family members agreed to talk with the Rescue 21 staff in Oct 2011 that conversion was terminated because the terms of conversation in difference of recording and who as involved. The initial consultation in the family and the USCG was not completed. Consultation letter was sent to the family member providing the after the fact consultation in November 2011 and the family did not agree with the proposed the conclusion of the technical report in Dec 2011. In early 2012 the USCG draft a statement of work to contract someone to do the technical report proposed by USCG and agreed by the state. That's where we are we are starting a statement of work. Can't finish the area of potential affect area determination and propose .5 mile around tower.

Miranda expressed the need to see the EDDA so an observation of the technical report from every agency, since they all have a different style. Was this an optimal site for a project like this? Commander agreed that the optimal site is an area high along the water line and un-obstructive. Like a receiver replied Miranda. Yes stated the Commander it's a transmitter we can connect with a May Day call. Miranda suggested any more development on the puu and Commander said absolutely not, the Rescue 21 system saved a life already, and the only activity will be the Archeological doing a technical report, also filling the generator and securing connectors.

Miranda goes on to say there was a burial site they had found and it's supposedly at the base of that puu. They didn't find a burial? Commander states no evidence was found of human remains while on site during construction. It was a pre existing site that's why USCG issued CATX. I don't know all the assumptions in the CATX. The tower was preexisting and where they were digging for guy wires. The tower is preexisting.

Lindsey brings up a concern with due diligence and Commander suggest the council would agree upon the area of potential effect, if .5 mile is reasonable as after the fact to identify present human remains. Lindsey understands that something needs to take care of the damage. Commander states again the dispute is over a .5 mile radius for survey is enough. Lindsey suggests more or less area? Proposing a .5 mile as the USCG disturbed an area of that tower inside the fence line. A .5 mile is 2600ft from center of the tower. As a means for making right what we didn't do

ahead of time to look at a larger area so they will know about what's there from the surface evidence than they do now.

Kahakalau suggested there are so many parts to it and an explanation of the history prior to USCG and a better understanding may come about. Lindsey adds that as a board member making things work so that everything is coordinated and the final decision. Wish I could say oops we made a mistake. There are issues of burials close by, again oops. Is that an honest mistake?

Gene Maestas of USCG introduces himself as representation of public affairs for the 14<sup>th</sup> district. In a perspective of the situation and appreciate the invitation. We are here not only to look at the legal responsibilities only to offer an apology to descendants. Make an amends with descendants and try to reconcile with the mana of the ancestors and I know its not legal requirement but its something important for us to do. If that offers any perspective that's why we are here today, and also we were invited.

Miranda extended gratitude for USCG cooperation as they aren't required but found it moral. Kahakalau added that we should listen to descendants of the history of the area and the USCG was only part of the inadvertent Noeau found.

Noeau Peralto introduced himself and wanted to add to the timeline that was laid out from 2009. Me and a number of other descendants working with Mr. Deluz with the next agenda issue. In August 2010 because of that process in the 2 TMK's and upper portions of Kuka'iau and I'olehaehae were recognized by state known as pre id burial site and have letter from Coochie Cayan in recognition. Sept 2010 referenced the meeting that we had with contractors. No rep fro USCG at the meeting all the contractors and lessee Crown Castle was represented as well as the landowner. Uncle jimmy and Uncle Gilbert and myself and met with them and informed that the area has been pre identified. We informed them of state and fed laws including NHPA and consultation process. They told us they were planning to continue construction on Monday it was a Friday. At meeting they said no construction and talk to there legal people and get back to us to continue process of consultation. Any thing heard about this project in may 2011 and the thing was built. This is the first time for us we got this information about what had been going between and before. And the consultation and the referenced the phone call conference of the after the fact consultation. We asked to record and the legal they didn't want to talk on a recorded phone call. It turned to a written consultation to meet with a person of what happened in December 2010 and when it got built. The tower is not operational and pending the consultation and again its turned on a couple months ago April. When we went up there Tuesday first time we met with USCG in person our entire ohana hasn't done that. I on Tuesday first time face to face in having discussions of what happened and how get to this point that all these laws were surpassed and construction without violating any laws. The frustration we had throughout this process in this communication. We had a good site visit on Tuesday and hope to move forward. We have to discuss as ohana and what our stance is in moving forward and the proposal of the AIS. What's the purpose of the AIS and .5 mile radius being surveyed when the project has been constructed how are making it better in the area and figuring the details and answering questions in an in person consultation process that's yet to occur.

Lee asked if there is any info on the construction period and Noeau replied that we haven't been provided info on that construction period. Kahakalau added the construction of the tower issue. They could have already disturbed the area as the area is identified as a burial site like the cell phone tower. They didn't follow the rules and red flags that they were suppose to be. Thought it exited but it didn't exist in appropriate procedures. An over sight I'm sure and that is issue. You said in December 2010 you didn't get communication in the landowner Mr. Deluz and DLNR and MR. Deluz was stating a Dec 2010 developing a BTP. USCG answered that's my understanding. Lindsey questioned the cell tower from before. Lee added that Crown Castle is the lessee. USCG clarified that they lease from Crown Castle and they have a lease with Mr. Deluz. Miranda emphasized our involvements created an impact of communication with families and departments and see that it continues with the landowners and descendants.

Miranda and Leningrad thanked the USCG for coming. However Kahakalau added the report was in place in April and USCG stated that they had started in April. Kahakalau questioned the time line for the technical report. Before we can finalize statement of work we have to determine the area of potential affect, .5 miles is what the USCG proposed. Kahakalau emphasized that the descendants need time to look at what is possible since they are just finding about this now and how is the communication going to happen. USCG suggested and not prescribed that we work through SHPD and I think the conduit for the information and they be party to any consultation to be on an even keel and well documented across the board. USCG offered to mitigate the proposed .5 miles in May with a 30 day request of a response and the second letter in June. We would really like an answer in the second 30 day. The

USCG interested in hearing the pros and cons of half a mile bigger or smaller and really starts the dialog and makes this right as soon as possible. Unger inquired if this is mitigation or not following the rules according to correct procedures to piggy back on to this tower. I can't understand how this came to be. Unger also included if the descendants say ok and agrees to this type of mitigation and came up with this idea. There is a lot here and go back to the original basis here is this going to be the mitigation and is everyone going to be happy. Kahakalau suggest that term mitigation wouldn't imply the identification of the area. USCG would like to make it right.

Mike Vitousek introduced himself and suggested that USCG go back to the entire 106 process and identify the process. Unger added than it would have been a 100 feet.

Kawika Farm introduced himself and added that the council needs to address the need to decide and Area of Potential Effect. Lee inquired that this site is a burial site and Kahakalau replied that this entire property is identified as a burial site. Lee was wandering why the tower is even there. Unger addresses Crown Castle.

Kauanoë Hoomanawanui introduced herself and addressed Crown Castle is not present today and USCG is a lessee to them. The landowner is present and the third party atop the existing Crown Castle leased tower, USCG is here to clear the present situation. Lindsey added someone is responsible for that tower.

Vitousek emphasizes the constructed by permit and then slued into an after fact to SHPD and it happened again with this project where it happened again. SHPD has made mistakes in a known no effect 2008 for the core location. What these guys trying to come in here and they don't need to and taking the opportunity to go through the process and make up for all of our mistakes. Lindsey replied basically they don't need to be here and USCG added that they can not by law but to solve issues across the board.

Jimmy Medeiros heard them testify and was involved with it and difficult part was that it was a known burial. The consultation is they knew ahead of time. Our meeting we decided that they are going to seek legal advice. We knew from the state that it was a known burial site and solid waiting for this legal position. We had our position. There's no remedy for the descendants. The tower is sitting on the kupuna. No trust and cant believe that nothing was really happening. We wanted to be involved and in the meeting we wanted to be the one to see the island. No disturbance at all. I'm concerned with you negation offer of whether .5 mile archaeology search "after the fact" the clearing up for an expansion of something. Ask for an extension in time in where this is going to be ok to conduct.

Lee highlighted that an agreement for and SHPD signed off, we are trying to make it right and taking it a face value. You guys are and asked to discuss with descendants with something to work out before you come back to us for a decision. Noeau added that he requested an in person consultation and then we heard that USCG sent SHPD letter of AIS. Why weren't we consultation first and what is that. USCG confirmed that they will see it through, a little consultation and offer services between descendants and USCG, Lee added that descendants are looking for consultation and there next piece is with the landowner. Is that okay with you guys? Miranda asked for that evaluation witch constitutes the APU, I want a checklist that says this.

Lee concludes the discussion with appreciation for everyone.

## **V. Old Business**

### **A. Update on Burials found at Kukaiāu Ranch. TMK: 4-2-008:008 & 021 and 4-4-015:001.**

Aulii Mitchell of CSH introduced himself along with David Deluz Jr. the landowner, states My parents have put the property up for sale and for initial opening escrow and we are in the due diligence period. Still the goal of the family to expedite judiciously as can with the descendants. In fact I'm hoping it can go quicker only because we feel we would like to get it done. Whatever comes about that CSH can fill in to potential buyer of what is in the process in moving forward. Lee emphasized if the new buyer will be informed of the burial sites. Deluz suggests that they are offering access with SHPD, CSH, and our information to the new buyer. Lindsey questioned about the property being in escrow and Lee stated that the sale of the property and the disclosure of the buyer beware. They will be subject to a lawsuit. Respect, taking the law they have to disclose. Subject default to the sale with specific property laws. Also adding the state thing and the sale thing are two different things.

Miranda adds was there any type of funding in regards with NRCS and Deluz answered NRCS administrative the FSA monies and they were the over sight on the ground. The documentation we secured on Tuesday. Miranda

suggests 2 separate agencies and a different idea about the 106 consultation. If NRCS are involved than a 106 is implemented. Was there an MOA?

Deluz included the reason it was important to create the timeline to understand circumstance. We as the landowner aid to get NRCS to get there archaeologists and ground environmental workers. Communicated HSBC to have them all work with us to get this situation resolved. Make it a better situation. When I went to FSA, because case they are taking another project and they wont rely on NRCS signing off on the property. If anything it heightened awareness in that agency. Unfortunately Mr. Ueda indicated they will take the initiative to make a check.

Aulii Mitchell of CSH addressed that any iwi encountered let them know so that they may be able to take care of them and put them were there were previous bones. At the site visit in April 2012 a few fragments were found by EM not identified as human remains. The cultural descendancy list is a good and many have one phone number. Deluz has the access agreement coming along got consummated in April. We took it upon ourselves to initiate something. The concept the descendants are using as far as creating Hui's in there family. To fill the gaps and something to communicate quickly for expedite the process. He has been recognized as the head of committee in access prior the BTP. CSH added contacting lineal and cultural descendants through publications and legal notices.

Lee asked if there are any more questions.

## **VI. Inadvertent Discovery**

### **A. Inadvertent Human Skeletal Remains encountered at Kamakahonu makai of the King Kamehameha Beach Hotel, North Kona District, TMK: (3) 4-3-003:007.**

Kawika Farm got a report that skeletal remains at Kamakahonu and the Archeologists walked along the beach and collected surface remains. Mike Vitousek clarified someone had collected bones that came from the shoreline at Kamakahonu. Werent aware where they found them and some were human skeletal and 3 human and 6 animal fragments, a cow and dog. Covered them and sorted at the office and consultation with History & Culture Branch. Farm added that the Hotel has a re-internment vault on the property. This is an ongoing plan since the need to kokua the iwi. Since daily checks on the beach they designated a vault on the Hotel property. That's the proposed treatment at this time.

Kahakalau asked if there were any descendant claims for the area and emphasizes until eventual or still to be re-entered in consultation with the hotel and to be clear, ultimately SHPD will make a decision on how it is to be preserved.

Jimmy Mederois added since we walk through water to reinternment because of the hostility of the Hotel. To be specific in this testimony because it is important and we came before the council and all of us in agreement in putting it back in the Hotel. Kalani Nakoa person of the area under Mauna Roy and he takes this Kahu roll there. Us the ohana also, so during the reinternment he wanted to be part of the process and time to put in the puka in the hei'au he is playing his Kahu roll and we thought he be ok to put it in and we be outside. Since he is there everyday he can play that role and malama the area for the years prior. Even the hostility at the hotel with police and attack our kupuna's. Next morning he never come see us is everything ok. He said no I get the iwi, so at night he stole the iwi. I spend half a day talking him into giving me the iwi back. It was real difficult because I wanted to smash him and I got the iwi back the next time around. This time Pali and Bumpy and we won't have anymore interference to the reburial. Im not comfortable that this is the man that found more bones and he isn't working with us and I don't know if he is digging it out of the Hei'au. We are not comfortable with this person near the Hei'au. I'm concerned when it's Kalani Nakoa. If we need the investigation of where the bones actually came from and they won't agree with the Hotels reinternment. That's where uncle put it before and continue to put it back. The temple is near the Luau, and they are hostile to the iwi all along. The last round we held the iwi. I'm just concerned when it comes to Kalani Nakoa if he found it or digs it out and don't agree with it being in the hotels hands right now. I'm concerned and expect some good investigation.

Vitousek adds the Hotel has similar concerns.

Lehua Kamaka reintroduces herself again, Kamakahonu my great grandfather Sam Kama there and I also worked with Kona Beach Boys which is affiliated with Kalani Nakoa. What im hearing about the iwi's a little huh? When jimmy was speaking about it I am going to say I vouch for what Jimmy says. With Kalani when we found bones we

would wrap it up and put it into the shack. I had no idea but all today. He would take it to put it properly in the area he spoke about. Him being he was the Kahu of that time. But we are going to go before Uncle Mauna Roy. In our Ohana my uncle Jo is the one that built the whole area and saw the iwi before Uncle Mauna Roy's time and did a lot of the burials and placing it. Like the wall builders and he knows where all the burials are today. He doesn't get involved in what is going on here. Im taking info and going back to Ohana and have a discussion. I wanted to let the Council know Uncle Jo Keka did a lot of the burials even it up to a Menehune and he can tell you where it is. I am descendant of Kamakahonu again with the other Ohana.

**B. Inadvertent Burial encountered during agricultural work at Paauilo, Hauola Ahupuaa, Hamakua District, TMK: (3) 4-3-003:007.**

Farm addresses what happened as a lady was working in on her coop plot and digging a hole to plant a tree. Just so happened Peter Mills was in the area on the way for more info. He did the initial assessment in determining bones and contacted SHPD and Theresa Donham went down on the site and spoke with the landowner and Kahakalau and Kauanoë went to site and determined to preserve in place. Vitousek questioned the type of farming in the area. Kahakalau answered diversified agriculture, small scale and plants most by hand. There is no machinery as it's a plow zone. Kauanoë emphasized that it's a small scale system of co-op farming.

**VII. Adjournment**

Lee adjourned the meeting at 3:19pm

Respectfully Submitted,

Kauanoë Hoomanawanui