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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

HONOLULU TRAFFIC.COM, et al.	)	Case No. 11-00307 AWT
	)	
Plaintiffs,	)	FEDERAL DEFENDANTS'
	)	ANSWER TO AMENDED
v.	)	COMPLAINT
	)	
FEDERAL TRANSIT ADMINISTRATION, et al.	)	
	)	
Defendants.	)	

Pursuant to Rule 8 of the Federal Rules of Civil Procedure, Defendants, the United States Department of Transportation; Ray LaHood, in his official capacity as the Secretary of Transportation; the Federal Transit Administration; Leslie Rogers, in his official capacity as Federal Transit Administration Regional Administrator; and Peter M. Rogoff, in his official capacity as Federal Transit Administration Administrator (collectively, "Federal Defendants,") by and through the undersigned counsel, submit the following Answer in response to Plaintiffs' First Amended Complaint filed on April 14, 2012 (ECF #117). The responses in the numbered paragraphs below correspond to the allegations contained in the numbered paragraphs in Plaintiffs' Amended Complaint. All matters not specifically admitted are hereby denied.

PLAINTIFFS' INTRODUCTION SECTION

1. The allegations in the first and second sentences of paragraph 1 set forth Plaintiffs' characterization of the nature and basis of their lawsuit and the relief they seek to which no response is required. Federal Defendants deny that Plaintiffs are entitled to the relief they seek or any relief whatsoever. The allegations in the third, fourth, and fifth sentences of paragraph 1 constitute conclusions of law to which no response is required. To the extent a response is necessary, Federal Defendants deny the allegations in the third, fourth, and fifth sentences.

PLAINTIFFS' JURISDICTION AND VENUE SECTION

2. The allegations in paragraph 2 constitute Plaintiffs' characterization of their complaint to which no response is required.

3. The allegations in paragraph 3 contain statements of jurisdiction to which no response is required. To the extent a response is required, Federal Defendants deny the allegations in paragraph 3.

4. The allegations in paragraph 4 contain statements of venue to which no response is required.

5. The allegations in paragraph 5 constitute conclusions of law to which no response is required.

6. The allegations in paragraph 6 constitute conclusions of law to which no response is required. To the extent a response is required, Federal Defendants deny the allegations in paragraph 6.

PLAINTIFFS' PLAINTIFFS SECTION

7. Federal Defendants lack the knowledge or information sufficient to form a belief as to the truth of allegations in the first, second, third, fifth, and sixth sentences of paragraph 7 and on that basis deny the allegations. The allegations in the fourth sentence of paragraph 7 purport to characterize Plaintiffs' comments on the Honolulu High-Capacity Transit Corridor Project ("Project"), which speak for themselves and are the best evidence of their contents. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the

comments. Federal Defendants deny the remaining allegations in the fourth sentence of paragraph 7. The allegations in the seventh sentence constitute conclusions of law to which no response is required. To the extent that a response is required, Federal Defendants deny the allegations in the seventh sentence.

8. Federal Defendants lack the knowledge or information sufficient to form a belief as to the truth of allegations in paragraph 8 and on that basis deny the allegations.

9. Federal Defendants lack the knowledge or information sufficient to form a belief as to the truth of allegations in paragraph 9 and on that basis deny the allegations.

10. Federal Defendants lack the knowledge or information sufficient to form a belief as to the truth of allegations in paragraph 10 and on that basis deny the allegations.

11. Federal Defendants lack the knowledge or information sufficient to form a belief as to the truth of allegations in paragraph 11 and on that basis deny the allegations.

12. Federal Defendants lack the knowledge or information sufficient to form a belief as to the truth of allegations in paragraph 12 and on that basis deny the allegations.

13. Federal Defendants lack the knowledge or information sufficient to form a belief as to the truth of allegations in paragraph 13 and on that basis deny the allegations.

14. Federal Defendants lack the knowledge or information sufficient to form a belief as to the truth of allegations in paragraph 14 and on that basis deny the allegations.

15. Federal Defendants lack the knowledge or information sufficient to form a belief as to the truth of allegations in the first, second, third, fourth, and fifth sentences of paragraph 15 and on that basis deny the allegations. As to the allegations in the sixth sentence, Federal Defendants admit that The Outdoor Circle submitted comments related to the Project and deny all remaining allegations. The allegations in the seventh and eighth sentences of this paragraph purport to characterize comments and statements made by The Outdoor Circle, which speak for themselves and are the best evidence of their contents. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the comments and statements.

16. The allegations in the first sentence of paragraph 16 constitute conclusions of law to which no response is required. To the extent a response is required, Federal Defendants deny the allegations in the first sentence of paragraph 16. Federal Defendants lack the knowledge or information sufficient to form a belief

as to the truth of allegations in the second sentence of this paragraph and on that basis deny the allegations.[1]

PLAINTIFFS' DEFENDANTS SECTION

16(a). Federal Defendants admit the allegations in the first and second sentences of paragraph 16. As to the allegations in the third sentence of this paragraph, Federal Defendants admit that the Federal Transit Administration ("FTA") issued a Record of Decision ("ROD") for the Project. The remaining allegations in the third sentence of this paragraph constitute conclusions of law to which no response is required.

17. Federal Defendants admit the allegations in paragraph 17.

18. Federal Defendants admit the allegations in the first sentence of paragraph 18. The allegations in the second sentence of this paragraph are overly vague, and on that basis, Federal Defendants deny the allegations.

19. Federal Defendants admit that the Department of Transportation is the parent department of the FTA. The remaining allegations in paragraph 19 are overly vague and Federal Defendants therefore lack the knowledge or information sufficient to form a belief as to their truth and on that basis deny the allegations.

[1] Plaintiffs' First Amended Complaint contains two paragraphs numbered "16." The answer to Plaintiffs' second paragraph 16 is referred to herein as paragraph 16(a).

20. Federal Defendants admit the allegations in the first sentence of paragraph 20. The allegations in the second sentence of this paragraph are overly vague, and on that basis, Federal Defendants deny the allegations.

21. Federal Defendants admit the allegations in the first sentence of paragraph 21. As to the allegations in the second sentence of this paragraph, Federal Defendants admit that the City and County of Honolulu ("City") served as joint lead agency for the Project with FTA. The remaining allegations in the second sentence constitute conclusions of law to which no response is required.

22. Federal Defendants admit the allegations in the first sentence of paragraph 22. As to the allegations in the second sentence, Federal Defendants admit that WayneYoshioka had some responsibility for the City's compliance with the National Environmental Policy Act ("NEPA"), Section 4(f) of the Department of Transportation Act of 1966, and the National Historic Preservation Act ("NHPA"). The remaining allegations in the second sentence constitute conclusions of law to which no response is required..

PLAINTIFFS' THE PROJECT SECTION

23. The allegations in paragraph 23 purport to characterize information about the Project described in the Final Environmental Impact Statement ("FEIS"), which speaks for itself and is the best evidence of its contents. Federal Defendants

deny any allegation contrary to the plain language, meaning, and context of the FEIS.

24. The allegations in paragraph 24purport to characterize information about the Project described in FEIS, which speaks for itself and is the best evidence of its contents. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the FEIS.

25. The allegations in paragraph 25 purport to characterize information about the Project described in the FEIS, which speaks for itself and is the best evidence of its contents. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the FEIS.

26. The allegations in paragraph 26 purport to characterize information about the Project described in the FEIS, which speaks for itself and is the best evidence of its contents. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the FEIS.

27. The allegations in paragraph 27 purport to characterize information about the Project described in the FEIS, which speaks for itself and is the best evidence of its contents. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the FEIS.

28. The allegations in paragraph 28 purport to characterize information about the Project described in FEIS, which speaks for itself and is the best evidence of its

contents. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the FEIS.

29. The allegations in paragraph 29 purport to characterize the Project's FEIS, which speaks for itself and is the best evidence of its contents. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the FEIS.

30. Federal Defendants deny the allegations in the first sentence of paragraph 30. The allegations in the second and third sentences of this paragraph purport to characterize the Project's FEIS, which speaks for itself and is the best evidence of its contents. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the FEIS.

31. Federal Defendants deny the allegations in the first sentence of paragraph 31. The allegations in the second, third, and fourth sentences of this paragraph purport to characterize the Project's FEIS, which speaks for itself and is the best evidence of its contents. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the FEIS.

PLAINTIFFS' APPLICABLE LAW SECTION

32. The allegations in paragraph 32 purport to characterize NEPA and its implementing regulations, which speak for themselves and are the best evidence of

their content. Federal Defendants deny any allegations contrary to the plain language, meaning, and context of the statute and regulations.

33. The allegations in paragraph 33 purport to characterize NEPA, which speaks for itself and is the best evidence of its content. Federal Defendants deny any allegation contrary to NEPA's plain language, meaning, and context.

34. The allegations in paragraph 34 purport to characterize NEPA and its implementing regulations, which speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, and context of the statute and regulations.

35. The allegations in paragraph 35 purport to characterize NEPA and its implementing regulations, which speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, and context of the statute and regulations.

36. The allegations in paragraph 36 purport to characterize NEPA and its implementing regulations, which speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, and context of the statute and regulations.

37. The allegations in paragraph 37 purport to characterize NEPA and its implementing regulations, which speak for themselves and are the best evidence of

their content. Federal Defendants deny any allegations contrary to the plain language, meaning, and context of the statute and regulations.

38. The allegations in paragraph 38 purport to characterize NEPA, its implementing regulations, and a Supreme Court opinion, which speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, and context of the statute, regulations, and cited opinion.

39. The allegations in paragraph 39 purport to characterize NEPA and the Council on Environmental Quality's ("CEQ") regulations, which speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, and context of the statute and regulations.

40. The allegations in the first, third, and fourth sentences of paragraph 40 purport to characterize the CEQ NEPA regulations and the Department of Transportation NEPA regulations, which speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, and context of the regulations. The allegations in the second sentence of this paragraph constitute conclusions of law to which no response is required.

41. The allegations in paragraph 41 purport to characterize 23 U.S.C. § 139(c)(3), which speaks for itself and is the best evidence of its content. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of this statute.

42. The allegations in paragraph 42 purport to characterize the Department of Transportation Act, which speaks for itself and is the best evidence of its content. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of this Act.

43. The allegations in paragraph 43 purport to characterize the Department of Transportation Act, which speaks for itself and is the best evidence of its content. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of this Act.

44. The allegations in paragraph 44 purport to characterize the Department of Transportation Act, which speaks for itself and is the best evidence of its content. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of this Act.

45. The allegations in paragraph 45 purport to characterize the Department of Transportation Act's implementing regulations, which speak for themselves and are the best evidence of their content. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the regulations.

46. The allegations in paragraph 46 purport to characterize the Department of Transportation Act's implementing regulations, which speak for themselves and are the best evidence of their content. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the regulations.

47. The allegations in paragraph 47 purport to characterize the Department of Transportation Act's implementing regulations, which speak for themselves and are the best evidence of their content. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the regulations.

48. The allegations in paragraph 48 purport to characterize the Department of Transportation Act's implementing regulations, which speak for themselves and are the best evidence of their content. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the regulations.

49. The allegations in paragraph 49 purport to characterize the Federal Highway Administration's 4(f) Policy Paper, which speaks for itself and is the best evidence of its content. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the 4(f) Policy Paper.

50. The allegations in paragraph 50 purport to characterize an FTA memorandum dated December 13, 2005, which speaks for itself and is the best evidence of its content. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the memorandum.

51. The allegations in this paragraph purport to characterize the National Historic Preservation Act ("NHPA"), which speaks for itself and is the best evidence of its content. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the NHPA.

52. The allegations in paragraph 52 purport to characterize the NHPA, which speaks for itself and is the best evidence of its content. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the NHPA.

53. The allegations in paragraph 53 purport to characterize the NHPA and its implementing regulations, which speak for themselves and are the best evidence of their content. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the NHPA.

54. The allegations in paragraph 54 purport to characterize the NHPA and its implementing regulations, which speak for themselves and are the best evidence of their content. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the NHPA and its implementing regulations.

PLAINTIFFS' FACTUAL BACKGROUND SECTION

55. The allegations in the first sentence of paragraph 55 are overly vague and Federal Defendants lack the knowledge or information sufficient to form a belief as to the truth of allegations and on that basis deny the allegations. As to the allegations in the second, third, and fourth sentences of this paragraph, Federal

Defendants admit that on or about July 2003, FTA and the City jointly issued an FEIS ("2003 FEIS"). The remaining allegations in this paragraph purport to characterize information described in this 2003 FEIS, which speaks for itself and is the best evidence of its contents. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the 2003 FEIS.

56. The allegations in the first sentence of paragraph 56 purport to characterize information described in the 2003 FEIS, which speaks for itself and is the best evidence of its contents. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the 2003 FEIS. As to the allegations in sentences two and three, Federal Defendants admit that on or about December 7, 2005, FTA published a Notice of Intent ("NOI") to prepare an EIS in the *Federal Register*. The allegations in the third sentence of this paragraph purport to characterize the NOI, which speaks for itself and is the best evidence of its contents. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the NOI.

57. With respect to the allegations in the first, second, third, fourth, and sixth sentences of paragraph 57, Federal Defendants admit that the City engaged in an "alternatives analysis" process and that the results of this process were incorporated by FTA into the process for complying with NEPA, Section 4(f), and NHPA. The allegations in the first half of the fifth sentence of this paragraph

purport to characterize the 2006 Alternatives Screening Memo, which speaks for itself and is the best evidence of its contents. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the 2006 Alternatives Screening Memo. The remaining allegations in this paragraph are overly vague and Federal Defendants therefore lack the knowledge or information sufficient to form a belief as to their truth and on that basis deny the allegations.

58. The allegations in paragraph 58 purport to characterize the 2006 Alternatives Screening Memo, which speaks for itself and is the best evidence of its contents. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the referenced document.

59. With respect to the first sentence in paragraph 59, Federal Defendants admit that the City engaged in an "alternatives analysis" process. The allegations in the second sentence of this paragraph are overly vague and Federal Defendants therefore lack the knowledge or information sufficient to form a belief as to their truth and on that basis deny the allegations. The allegations in the first half of the third sentence in this paragraph purport to characterize the 2006 Alternatives Report, which speaks for itself and is the best evidence of its contents. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the 2006 Alternatives Report. The remaining allegations in this paragraph are overly vague and Federal Defendants therefore lack the knowledge

or information sufficient to form a belief as to their truth and on that basis deny the allegations.

60. The allegations in paragraph 60 purport to characterize the 2006 Alternatives Analysis documents, which speak for themselves and are the best evidence of their contents. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the 2006 Alternatives Analysis documents.

61. The allegations in paragraph 61 appear to characterize the Project history set forth in the Project FEIS, which speaks for itself and is the best evidence of its contents. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the FEIS.

62. Federal Defendants admit that on or about March 15, 2007, FTA published a notice of intent ("NOI") to Prepare an EIS in the *Federal Register*. The remaining allegations in paragraph 62 are overly vague, and on that basis Federal Defendants deny the allegations.

63. The allegations in paragraph 63 purport to characterize comments in response to the NOI, which speak for themselves and are the best evidence of their contents. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the comments.

64. The allegations in the first and second sentences of paragraph 64 seek to characterize a request made by the City of Honolulu, which speaks for itself and is

the best evidence of its contents. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the request. As to the remaining allegations in the third and fourth sentences of this paragraph, Federal Defendants admit that the City engaged in a process to identify a preferred technology for the project.

65. The allegations in the first sentence of paragraph 65 are overly vague and Federal Defendants lack the knowledge or information sufficient to form a belief as to the truth of these allegations and on that basis deny the allegations. Allegations in the second sentence seek to characterize the City of Honolulu's technical review process for proposed transit technologies and report, and such report speaks for itself and is the best evidence of its contents.

66. Federal Defendants admit that the Draft Environmental Impact Statement ("DEIS") for the Project was issued in November 2008. The remaining allegations in paragraph 66 purport to characterize the Project's DEIS, which speaks for itself and is the best evidence of its contents. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the DEIS.

67. Federal Defendants deny the allegations contained in the first sentence of paragraph 67. The remaining allegations in this paragraph purport to characterize the comments on the Project DEIS, which speak for themselves and are the best

evidence of their contents. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the comments.

68. The allegations in paragraph 68 purport to characterize the comments on the Project DEIS, which speak for themselves and are the best evidence of their contents. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the comments.

69. The allegations in paragraph 69 purport to characterize the Federal Defendant's response to Plaintiff comments on the DEIS, which speak for themselves and are the best evidence of their contents. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the response to comments.

70. Federal Defendants admit the FEIS for the Project was issued in June 2010. The remaining allegations in paragraph 70 purport to characterize the FEIS, which speaks for itself and is the best evidence of its contents. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the FEIS.

71. The allegations in paragraph 71 purport to characterize the comments on the Project FEIS, which speak for themselves and are the best evidence of its contents. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the comments.

72. As to the allegations contained in the first, second, and third sentences of paragraph 72, Federal Defendants admit that a Programmatic Agreement ("PA") for the Project was executed in January 2011. The remaining allegations in the first, second, and third sentences of this paragraph purport to characterize the PA, which speaks for itself and is the best evidence of its contents. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the PA. Federal Defendants deny the allegations in the fourth sentence.

73. As to the allegations in the first sentence of paragraph 73, Federal Defendants admit that FTA issued a Record of Decision ("ROD") on the Project on January 18, 2011. The allegations in the second and third sentences of this paragraph purport to characterize the ROD which speaks for itself and is the best evidence of its contents. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the ROD. The allegations contained in the fourth sentence of this paragraph constitute conclusions of law to which no response is required. Federal Defendants deny the allegations in the fifth sentence of this paragraph.

PLAINTIFFS' VIOLATIONS OF LAW SECTION

PLAINTIFFS' COUNT 1

74. Federal Defendants incorporate their responses to paragraphs 1 through 73 and 78 through 124 as if set forth fully herein.

75. The allegations in paragraph 75 purport to characterize NEPA and its implementing regulations, which speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, and context of the statute and regulations.

76. The allegations in paragraph 76 purport to characterize NEPA and its implementing regulations, which speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, and context of the statute and regulations.

77. Federal Defendants deny the allegations in paragraph 77.

PLAINTIFFS' COUNT 2

78. Federal Defendants incorporate their responses to the paragraphs 1 through 77 and paragraphs 86 through 124 as if set forth fully herein.

79. Federal Defendants deny the allegations in paragraph 79.

80. Federal Defendants deny the allegations in paragraph 80.

81. Federal Defendants deny the allegations in paragraph 81.

82. Federal Defendants deny the allegations in paragraph 82.

83. Federal Defendants deny the allegations in paragraph 83.

84. Federal Defendants deny the allegations in paragraph 84.

85. Federal Defendants deny the allegations in paragraph 85.

PLAINTIFFS' COUNT 3

86. Federal Defendants incorporate their responses to the paragraphs 1 through 85 and paragraphs 94 through 124 as if set forth fully herein.

87. The allegations in paragraph 87 purport to characterize NEPA and CEQ's regulations, which speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, and context of the statute and regulations.

88. Federal Defendants deny the allegations in the first sentence of paragraph 88. The allegations in the second sentence of this paragraph are overly vague, and on that basis Federal Defendants deny the allegations.

89. Federal Defendants deny the allegations in paragraph 89.

90. Federal Defendants deny the allegations in paragraph 90.

91. Federal Defendants deny the allegations in paragraph 91.

92. Federal Defendants deny the allegations in the first and third sentences of paragraph 92. The allegations in the second sentence of this paragraph purport to characterize the FEIS, which speaks for itself and it the best evidence of its contents. Federal Defendants deny any allegations contrary to the plain language, meaning, and context of the FEIS.

93. Federal Defendants deny the allegations in the first and fourth sentences of paragraph 93. The allegations in the second and third sentences of this paragraph purport to characterize the FEIS, which speaks for itself and it the best evidence of

its contents. Federal Defendants deny any allegations contrary to the plain language, meaning, and context of the FEIS.

PLAINTIFFS' COUNT 4

94. Federal Defendants incorporate their responses to the paragraphs 1 through 93 and paragraphs 97 through 124 as if set forth fully herein.

95. The allegations in paragraph 95 purport to characterize NEPA and its implementing regulations, which speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, and context of the statute and regulations.

96. Federal Defendants deny the allegations in the first and ninth sentences of paragraph 96. The allegations in the second and eight sentences purport to characterize the FEIS, which speaks for itself and is the best evidence of its content. Federal Defendants deny any allegations contrary to the plain language, meaning, and context of the FEIS. The allegations in the third and fourth sentences are overly vague, and on that basis Federal Defendants deny the allegations. The allegations in the fifth sentence purports to characterize the 2006 Alternatives Report and 2006 Alternatives Screening Memo, which speak for themselves and are the best evidence of their content. Federal Defendants deny any allegations contrary to the plain language, meaning, and context of these documents. The allegations in the sixth sentence constitute conclusions of law, to

which no response is required. To the extent a response is required, Federal Defendants deny the allegations.

PLAINTIFFS' COUNT 5

97. Federal Defendants incorporate their responses to the paragraphs 1 through 96 and paragraphs 105 through 124 as if set forth fully herein.

98. The allegations in paragraph 98 purport to characterize the Department of Transportation Act, and its implementing regulations, which speak for themselves and are the best evidence of their content. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of this Act and the regulations.

99. The allegations in paragraph 99 constitute conclusions of law to which no response is required.

100. The allegations in the first sentence of paragraph 100 constitute conclusions of law to which no response is required. The remaining allegations in this paragraph purport to characterize the FEIS, which speaks for itself and is the best evidence of its contents. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the FEIS.

101. The allegations in paragraph 101 purport to characterize the FEIS, which speaks for itself and is the best evidence of its contents. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the FEIS.

102. The allegations in the first sentence of paragraph 102 purport to characterize the FEIS or comments of Hawaii's State Historic Preservation Officer contained therein, each of which speak for itself and is the best evidence of its contents. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the FEIS or comments. The allegations in the second sentence of this paragraph purport to characterize the ROD, which speaks for itself and is the best evidence of its contents. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the ROD. Federal Defendants deny the allegations in the third sentence of this paragraph. Federal Defendants deny the allegations in the fourth sentence, but admit that extensive archaeological survey methods have been used at locations throughout the Project alignment.

103. The allegations in the first and second sentences of paragraph 103 purport to characterize the FEIS or comments of Hawaii's State Historic Preservation Officer contained therein, each of which speaks for itself and is the best evidence of its contents. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the FEIS or comments. Federal Defendants deny the allegations in the third sentence of this paragraph, but admit that a study has been initiated to identify traditional cultural properties ("TCPs") along the alignment, and that one TCP was positively identified in the programmatic

agreement attached to the ROD. The remaining allegations are overly vague and Federal Defendants therefore lack the knowledge or information sufficient to form a belief as to their truth and on that basis deny the allegations.

104. Federal Defendants deny the allegations contained in paragraph 104.

PLAINTIFFS' COUNT 6

105. Federal Defendants incorporate their responses to the paragraphs 1 through 104 and paragraphs 109 through 124 as if set forth fully herein.

106. The allegations in paragraph 106 purport to characterize the Department of Transportation Act, which speaks for itself and is the best evidence of its content. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of this Act.

107. The allegations in the first sentence of paragraph 107 purport to characterize the FEIS, which speaks for itself and is the best evidence of its contents. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the FEIS. Federal Defendants deny all remaining allegations in this paragraph.

108. Federal Defendants deny the allegations in paragraph 108.

PLAINTIFFS' COUNT 7

109. Federal Defendants incorporate their responses to the paragraphs 1 through 108 and paragraphs 119 through 124 as if set forth fully herein.

110. The allegations in paragraph 110 constitute conclusions of law to which no response is required.

111. The allegations in paragraph 111 purport to characterize the Department of Transportation Act, which speaks for itself and is the best evidence of their content. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of this Act.

112. The allegations in paragraph 112 purport to characterize the DEIS, the 2006 Alternatives Report , the 2006 Alternatives Screening Memo, the FEIS, and various other public documents (including public comments) which speak for themselves and are the best evidence of their contents. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of these documents. The allegations in the second sentence of this paragraph constitute conclusions of law to which no response is required. To the extent a response is required, Federal Defendants deny the allegations.

113. The allegations in paragraph 113 constitute conclusions of law to which no response is required. To the extent a response is required, Federal Defendants deny the allegations in paragraph 113.

114. The allegations in paragraph 114 purport to characterize the 2006 Alternative Analysis documents, which speak for themselves and are the best

evidence of their contents. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the Alternatives Analysis documents.

115. Federal Defendants deny the allegations in paragraph 115.

116. The allegations in paragraph 116 purport to characterize the DEIS, the 2006 Screening Memo, the 2006 Alternatives Report, the FEIS, ROD and various other public documents (including public comments) which speak for themselves and are the best evidence of their contents. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of these documents.

117. The allegations in paragraph 117purport to characterize the FEIS, and an October 22, 2009 letter from the National Trust for Historic Preservation, which speak for themselves and are the best evidence of their content. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of these documents.

118. Federal Defendants deny the allegations in paragraph 118.

119. Federal Defendants deny the allegations in paragraph 119.

PLAINTIFFS' COUNT 8

120. Federal Defendants incorporate their responses to the paragraphs 1 through 119 as if set forth fully herein.

121. The allegations in paragraph 121 purport to characterize the NHPA and its implementing regulations, which speak for themselves and are the best evidence of their content. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the NHPA and its implementing regulations.

122. The allegations in paragraph 122 constitute conclusions of law to which no response is required.

123. The allegations in paragraph 123 purport to characterize the PA, which speaks for itself and is the best evidence of its contents. Federal Defendants deny any allegation contrary to the plain language, meaning, and context of the PA.

124. Federal Defendants deny the allegations in paragraph 124.

PLAINTIFFS' CLAIM FOR RELIEF

The remainder of the Complaint consists of Plaintiffs' request for relief, to which no answer is required. Defendant denies that Plaintiffs are entitled to any relief whatsoever.

GENERAL DENIAL

Defendant denies each and every allegation of the Complaint not otherwise expressly admitted, qualified, or denied herein.

AFFIRMATIVE DEFENSES

1. Plaintiffs have failed to state a claim on which relief can be granted on some or all of their claims.
2. Plaintiffs lack standing to assert some or all of their claims.
3. Some or all of Plaintiffs' claims are moot or not ripe for adjudication.
4. Some or all of Plaintiffs' claims have been waived.
5. Plaintiffs have failed to exhaust their administrative remedies.
6. The court lacks jurisdiction over some or all of Plaintiffs' claims.

DATED: May 7, 2012.

IGNACIA MORENO
Assistant Attorney General

By *__/s/ Peter Whitfield__*
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UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

HONOLULU TRAFFIC.COM, et al.	)	Case No. 11-00307 AWT
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
FEDERAL TRANSIT ADMINISTRATION, et al.	)	
	)	
Defendants.	)	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on the date and by the method of service noted below, a true and correct copy of the foregoing was served on the following at their last known address:

Served Electronically through CM/ECF:

Matthew G. Adams	matthew.adams@snrdenton.com
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DATED: May 7, 2012

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