

TESTIMONY
SHPD 4/3/10



HISTORIC HAWAII FOUNDATION

National Park Service Report on Hawaii State Historic Preservation Division Compliance with annual historic preservation fund grant

Summary:

- The National Park Service (NPS) is charged with oversight of the states' implementation of the nation's preservation program, primarily through compliance with the terms of an annual Historic Preservation Fund (HPF) Grant, which is provided to the states to implement the National Historic Preservation Act (NHPA).
- In a report dated March 19, 2010, NPS found that the Hawaii State Historic Preservation Division (SHPD) is not satisfactorily meeting the minimum requirements of its grant and deemed SHPD as a "high risk grantee." The report outlined corrective actions that SHPD must take to remedy the problems in order to ensure continued eligibility for the program and to retain the state's approved status to make determinations about federal undertakings that have the potential to affect historic properties.
- If SHPD fails to make adequate progress on the corrective action plan within a year and to complete the action items within two years, the consequence will be removal of the state's approved status and loss of its federal funding.
- The State and Federal historic preservation programs were designed to provide identification and protection of locally and nationally significant historic properties in a way that is harmonious with contemporary use. Failure to have adequate professional staff, standardized processes and effective programs exposes Hawaii's historic legacy to irreparable harm.
- Loss of its status and right to make determinations under the NHPA would have a devastating effect on Hawaii. Without an approved State Historic Preservation Office (SHPO), all federal undertakings (including projects with any federal funding, permit, license or approval) will need to use alternative methods for compliance with the NHPA. Since no state has lost its federal status under NHPA since its enactment in 1966, any alternative compliance method is unknown and unprecedented. It would likely involve loss of local control and decision-making, which would be problematic for both adequate protection of the state's historic resources, and create uncertainty and delays for the proposed projects, which could jeopardize their viability.
- The loss of approved status will have an economic effect. Major undertakings likely to be affected by this action include such projects as the public-private partnership for military family housing; changes to facilities at the Pearl Harbor Naval Shipyard and other military installations; transportation funding for roads, bridges, airports, harbors and transit; permits processed by EPA and Army Corps of Engineers; and improvements to national parks and wildlife refuges.

Historic Hawai'i Foundation urges immediate support for SHPD to comply with NHPA, the HPF Grant Manual and the Corrective Action Plan, as well as longer-term actions to address root weaknesses in the preservation program.

- The State should develop a strategy that addresses short-, medium- and long-term solutions:
 - In the immediate future, SHPD needs to address the corrective action items, which are primarily administrative actions requiring internal systemic adjustments and management accountability.
 - In addition, DLNR should convene a strategic discussion with major stakeholders to develop model programs for survey & inventory, preservation planning and certified local governments; public-private partnerships may assist.
 - For the long-term, the State of Hawaii should consider an overhaul of its historic preservation infrastructure in order better to provide appropriate and adequate systems to address both federal and state issues; this community discussion should include a broad base of stakeholders and innovative approaches.
- The State needs to allow for full use of available resources, including hiring for vacant positions; contracting for services; accepting restricted special donations; and use of in-kind support.

P.O. Box 1658 • Honolulu, HI 96806 • Tel: 808-523-2900 • FAX: 808-523-0800 • www.historichawaii.org

Historic Hawai'i Foundation was established in 1974 to encourage the preservation of historic buildings, sites and communities on all the islands of Hawai'i. As the statewide leader for historic preservation, HHF works to preserve Hawai'i's unique architectural and cultural heritage and believes that historic preservation is an important element in the present and future quality of life, environmental sustainability and economic viability of the state.

Chapter 1: Introduction to Mathematics

Section 1.1: The Language of Mathematics

Mathematics is a language that uses symbols and logic to describe the world around us.

1.1.1 Symbols and Notation

Mathematical symbols and notation are used to represent numbers, operations, and relationships. Common symbols include numbers (0-9), letters (A-Z), and mathematical operators (+, -, ×, ÷). Notation is used to describe sets, functions, and other mathematical concepts.

1.1.2 Logic and Reasoning

Logic is the study of the principles of reasoning. It is used to determine the validity of arguments and to construct proofs. Logical reasoning is essential for understanding mathematical concepts and for solving problems.

1.1.3 Sets and Functions

Sets are collections of objects, and functions are mappings between sets. Sets and functions are fundamental concepts in mathematics and are used to describe many other mathematical structures.

1.1.4 Numbers and Operations

Numbers are used to represent quantities, and operations are used to combine numbers. The natural numbers, integers, rational numbers, and real numbers are all examples of number systems.

1.1.5 Geometry and Algebra

Geometry is the study of shapes and spaces, and algebra is the study of equations and functions. Both geometry and algebra are essential for understanding the physical world and for solving many practical problems.

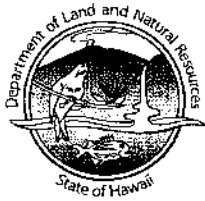
1.1.6 Probability and Statistics

Probability is the study of chance, and statistics is the study of data. Both probability and statistics are used to analyze and interpret data, and they are essential for understanding many aspects of the world around us.

1.1.7 Calculus and Analysis

Calculus is the study of change, and analysis is the study of the foundations of calculus. Both calculus and analysis are essential for understanding many physical phenomena and for solving many practical problems.

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER

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

Testimony of
LAURA H. THIELEN
Chairperson

Before the Senate Committee on
WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS

Saturday, April 3, 2010
10:30 AM
State Capitol, Room 229

Informational Briefing on
NATIONAL PARK SERVICE REPORT ON THE STATE HISTORIC PRESERVATION DIVISION

Thank you for the opportunity for a thoughtful discussion on our State's Historic Preservation Program. This Program has significant federal and state missions, affects our economy in ways most people do not realize, and has struggled for well over a decade trying to meet these demanding mandates.

The recent National Park Service (NPS) designation of the Hawaii State Historic Preservation Division (SHPD) as a "high risk" grantee is the topic of today's briefing. However, it is imperative for this Committee and everyone in the State to recognize that the NPS focus is far narrower and different than the focus of Hawaii's State Historic Preservation laws. Accordingly, **this Committee must consider the NPS report in the context of our State laws and the broader SHPD mission. Failure to recognize those differing mandates will continue the long history of complaints about the program and the loss of opportunities to preserve, enhance and showcase Hawaii's rich history.**

I would like to provide the Committee with

- an overview of SHPD, including an outline of recent improvements;
- brief description of our plans to address the NPS compliance plan, including the needed assistance from NPS and the detrimental impact that will have on our ability to meet the mandates under state law that differ from the federal program; and,
- An explanation of the need to restructure our entire State Historic Preservation Program, and not just limit our focus on the division within this department.

I. Brief Overview of SHPD

In 2002 the Legislative Auditor issued a report on the State Historic Preservation Division that addressed the operations and management of the division over the prior Administration. The Legislative Auditor found:

that untimely and inconsistent archaeological reviews compromised the division's ability to protect Hawaii's unique historic sites and artifacts. Projects were delayed for months and sometimes years. ... diverse standards are applied when reviewing the archaeological reports. Disparate review standards threaten the division's ability to protect historic sites....Inconsistent standards also plague the division's burial program.... The division also failed to ensure the safekeeping of historical artifacts in its custody. ... The administrator caused the State to lose over \$65,000 when he failed to subgrant these federal funds to local certified governments as required by federal law.

Between 2002 and 2006 new leadership was brought to SHPD in an attempt to address the concerns raised in the Audit. However, that process also had the result of staff turnover, leaving SHPD at times without the full compliment of staff meeting the minimum qualifications required under the NPS federal grant. As a result, SHPD began again to fall behind on permit reviews.

In 2007 the SHPD Administrator resigned, and the department initiated a broad-based and transparent transition process seeking new leadership and identifying program priorities. The department created a search committee to identify the qualifications of a new Administrator, interview candidates and recommend to the department the top candidate. The committee was comprised of Timothy Johns, Director of Bishop Museum, Dr. Ku Kahakalau, member of Big Island Burial Council and founder of Hawaii's cultural based public charter school movement, and (ret) Judge Patrick Yim, board member of the Queen Lilioukalani Children's Trust.

In addition, the department entered into an agreement with the Office of Hawaiian Affairs and created a transition team to assist in administering SHPD during the period we were seeking a new Administrator. Stanton Enomoto of OHA and Rowena Sommerville of the Department of the Attorney General were detailed to SHPD to manage the transition period.

In 2007 Dr. Puaalaokalani Aiu was selected as the new Administrator of SHPD, Nancy McMahan, a 20-year veteran of SHPD was selected as the Archeology Branch Chief and Deputy Historic Preservation Officer.

Significant Progress by SHPD in 2007-2010

Under the leadership of Dr. Aiu and Ms. McMahan, SHPD has made tremendous progress on many of the long-standing issues plaguing the division. A brief list includes:

- In the past two years, SHPD has made astounding progress in review and compliance. Two years ago the backlog of review was extremely large. SHPD routinely failed to complete regulatory reviews within the statutorily mandated timeframe. Today we are current with all federal 106 federal reviews and our state Chapter 6E reviews.
- In the past two years we have taken steps to bring enforcement actions to ensure landowners are complying with conditions to protect historic sites. Two examples include an enforcement action against a developer for violations on Oahu and action to address a desecration of a heiau on Maui.
- In an effort to update Hawaii's State Historic Preservation Plan for the first time in a decade, SHPD created a Task Force of thirteen members, including Historic Hawaii, Society for Hawaii Archeology, Friends of SHPD, NPS, Office of Hawaiian Affairs, National Trust for Historic Preservation, Architectural Industry Association State Chapter, NOAA, and several committed individuals.

Members of the Task Force met in working session twice monthly to develop a draft outline, framework and plan. The Plan framework was presented to the Hawaii Review Board for comment and approval. The next step is to hold public meetings to gather broader input, and then finalize the Plan.

- In 2008 we met the NPS priority to work with the local entities and distributed federal funds to the Maui Certified Local Government (CLG). In 2009 the DLNR Land Board approved the Kauai CLG contract. In the event the other two counties develop an approved CLG program, SHPD will alternate federal funds to those entities as well.
- In the past two years SHPD completed the following NPS recommendations for programmatic improvements, which NPS asked us to prioritize:
 - Adopted personnel policies per request by NPS
 - Hired additional qualified staff, including an Administrator(Pua Aiu), two archeologists (Theresa Donham and Patti Conte), two Cultural Specialists (Phyllis Cayan and Analu Josephedes) and Urban Planner to fill the Keeper of the Register position (Ross Stephenson) and an Administrative Assistant (Randolph Lee)
 - Completed approximately 15 Programmatic Agreements, Memorandum of Understanding and Memorandum of Agreements with a wide variety of agencies, including the Federal Highways Administration, State Department of Transportation, and Department of the United States Army, National Park Service and the Natural Resources Conservation Service.
 - Timely filed an NPS approved End of Year grant report for FY 2008 and 2009
 - Met all additional NPS payment requests documentation and requirements and accurately accounted for grant funds and matching shares

- Developed a policy on archeological and architecture curation policy, which is being reviewed by NPS
- Followed NPS grant manual procedures consistently

- Another area in which we've made significant progress these past two years that is not subject to the federal grant as it's under exclusive state jurisdiction, but is of great importance to our program, is the reinterment of *iwi kupuna* that have been residing in SHPD inventory for years. Over the past two years SHPD has reinterred approximately 90 percent of *iwi* stored on Oahu. This has brought the inventory down from approximately 300 sets of *iwi* to about 25 sets of *iwi*.

The department thanks NPS for recognizing in their report that SHPD has made progress these past few years.

The NPS recognizes that the SHPD has made significant improvements in some programs as the result of outside technical assistance and the desire to improve the program. ...

Mr. (Randolph) Lee has also taken initiative to oversee the Certified Local Government Program and was pivotal in providing essential training to Hawaii's CLG. ...

Under the direction of Mr. Ross Stephenson, the SHPD's National Register program has the potential for success and growth. ...

The NPS team also visited the SHPD field offices on Maui and Hawaii ... (and) the files, logs, and libraries in both offices are well organized, and the staff is well qualified and dedicated. ...

NPS also recognizes that Ms. Laura Thielen, Chairperson, Department of Land and Natural Resources and State Historic Preservation Officer, has made great efforts to correct many of the grant administrative-related problems of the SHPD that were present prior to her appointment as SHPO. ...

Progress is being made in revising the Statewide Historic Preservation Plan...

The SHPD consequently meets the minimum professional staffing requirement of the Act. ...

The SHPD should be commended for its recent efforts to digitize library files through a Docu-Share system.

Report on Hawaii State Historic Preservation Division Operations, National Park Service, March 19, 2010.

II. Addressing the NPS Compliance Plan

NPS is requiring SHPD to meet specific expectations in five areas:

- Survey and Inventory
- Review and Compliance
- National Register of Historic Places
- Certified Local Government Administration
- Historic Preservation Planning

SHPD has arranged an initial meeting with NPS staff to address the compliance plan in detail. The first step is to ensure we understand precisely what the NPS expects in order to comply with their demands. For example, we do not want to spend two years developing an inventory system the NPS does not find satisfactory.

SHPD also hopes that NPS will entertain input into this plan, as we have been requesting this for over eight months. Frankly, our concern is the compliance plan does not fully comprehend the fiscal challenges facing our state as well as the limited professional talent pool we have in our small and isolated state.

National Register; CLG Administration; Historic Preservation Planning

SHPD is making progress on three of the five areas of the NPS Compliance Plan: the National Register of Historic Places, the Certified Local Government administration, and updating the State Plan. Accordingly, we foresee maintaining our progress will result on compliance in these three areas.

We stress that our ability to maintain progress depends heavily on maintaining existing staff. SHPD is long plagued by staff turnover and the challenge of finding “qualified” professional staff – archeologists, architects, historians – in Hawaii’s limited population. The fact that the job is one under intense public scrutiny and often caught in the cross-hairs of larger public debates and acrimony makes recruitment far more difficult.

Hawaii also suffers an additional handicap under the federal grant system. NPS requires historians to have a history degree in order to meet their federal qualifications. Accordingly, a person with a European History, Ancient Aztec History, or Chinese History degrees would be an NPS “Qualified” historian. A person with a Hawaiian Studies degree from UH Hilo would be deemed “Unqualified” by NPS. This makes recruitment more difficult for SHPD, and frankly, eliminates personnel who should be far higher qualified for work in Hawaii from consideration.

SHPD has requested NPS provide us with a waiver to recognize Hawaiian Studies degrees as “Qualified.” NPS has rejected that request. We will reiterate that request and would appreciate legislative support in the form of a concurrent resolution recommending NPS approve.

Survey and Inventory

SHPD's biggest concern is our inability to meet the technological aspects of the NPS required on-line, searchable database for the inventory and surveys. We have requested NPS provide technical support in the form of IT or archivist staff. Disappointingly, the NPS report simple recommends the state hire such staff, and it appears NPS is limiting their resource support to hiring an administrator to oversee SHPD's efforts.

We are reaching out to other partners to seek technical support. To date one private firm and Historic Hawaii have offered to assist in these efforts. In addition, Pacific Disaster Center has examined our current GIS system and developed a plan for searchable database integrated with GIS. The department will not be able to implement this plan unless outside technical assistance is provided, and we will be seeking NPS support. In the meantime, we have placed one archeologist on special assignment to work with existing systems to develop an improved inventory and correspondence file tracking system.

Review and Compliance

The NPS focus on review and compliance is limited to federal projects reviewed under the federal law. SHPD is current with those reviews and does have qualified staff conducting those reviews. However, the NPS focus on federal reviews combined with the other four aspects of the federal demands will come at the expense of SHPD review of state and private projects under state law.

SHPD currently focuses its efforts on review and compliance, conducting approximately 6,000 reviews per year. Forty-nine other states have Historic Preservation Programs that limit reviews to federal properties and projects funded with federal monies, with some also reviewing projects on state lands. No other state has a state law like Hawaii which requires reviews of private projects on private property. We have the largest review mandate of any historic preservation program in the entire nation. Hawaii's broad review mandates are driven primarily by the burial program. In contrast, the federal program does not consider burials and does not consider private development on private lands.

SHPD will need to defer some reviews under state law in order to meet the NPS compliance plan which focuses exclusively upon the federal mandates.

III. Need to Restructure the State Historic Preservation Program

The NPS action puts our state historic preservation program at a cross roads. In a nutshell, here are our choices:

1. We can defer activities mandated under state law in order to concentrate on the federal requirements for the next two years to meet the NPS directives.

Consequence:

- We will meet NPS requirements and maintain federal funds and a federally-approved State Historic Preservation Program.
- During this two-year period we will not review an unknown number of private and state projects, likely resulting in an increase in the number of inadvertent burials discovered and historic sites on private and state land affected.

2. We can reject the federal demands and determine our state mission maintains priority.

Consequence:

- In two years we will lose recognition as a federally-approved state historic preservation program. We will lose the \$900,000 federal grant. More importantly, Hawaii will lose the ability to locally review and comment on all the federal and federally-funded projects in Hawaii. If SHPD loses federal recognition, those reviews will be conducted by the Advisory Council of Historic Preservation and staff in Washington D.C.
- While we maintain state priorities for two years, after the loss of the federal grant, either the State must fund the shortfall to continue the program or it will fail.

3. We can stick our heads in the sand; pretend that SHPD can meet both the federal and state mandates; and blame SHPD staff and DLNR management for failure.

Consequence:

- SHPD staffs are driven into an early grave, high turnover and vacant positions persist.
- Hawaii doesn't meet or barely limps to meeting the NPS compliance plan.
- Hawaii misses an opportunity to develop a meaningful historic preservation program.

4. We restructure Hawaii's Historic Preservation Program

Consequence:

- If we develop a constructive process focused on success rather than blame, are respectful of the differing and sometimes contrasting priorities of various stakeholders, and are willing to listen to alternatives and new ideas with an open mind, we could develop a historic preservation program that celebrates and showcases Hawaii's rich history.
- If we take a different approach, or even with the best of intentions, we could end up with various stakeholders backed into corners angrily defending their priorities, and leaving SHPD exclusively responsible – yet again – for all missions, and leaving Hawaii with a program that simply documents history before it is destroyed or removed.

IV. Conclusion

I do not have a proposal for how the state historic preservation program should be restructured. That would be presumptuous of me. The current program was developed over many years with input from many people. Any restructuring should be done in the same manner.

What I do propose is that the state undergoes a process to restructure the state program. Not just SHPD. The entire program. We will never achieve a robust program that meets both the state and federal missions through a single, small division within DLNR. There is broader responsibility, broader authorities; broader opportunities.

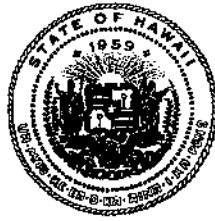
If any good can come out of this NPS Report, it is because it becomes the catalyst that requires the State to directly face the challenges and unrealistic mission and expectations facing the SHPD and the need to resolve some of the challenges imposed by the current laws and expectations. As a start, we'd request the following:

- NPS provide SHPD with technical, not administrative, staff support to implement the archive and online inventory and survey system;
- NPS grant SHPD a waiver recognizing that Hawaiian Studies degrees can be considered qualified under federal standards;
- Archeological community recognize their work is driven primarily by the public policy in state law recognizing the importance of historic sites, and accordingly to support some form of minimum professional standards and oversight outside of the SHPD;
- Legislature's concurrent resolution move beyond a "day of healing." Support a symposium focused on updating Hawaii's Statewide Historic Preservation Plan in a manner that examines restructuring the program, with a report back to the Legislature next year; and
- Senate withdraw their budget proposal to cut SHPD funding an additional 10%.

In closing, all parties need to recognize the limitations of a single small division within a department with as broad a mission as DLNR. Giving SHPD more unfunded mandates, or even funded mandates, will not work. The division has more on its hands than is possible given the NPS demands.

I am proud of the current staff for the remarkable progress they have made these past two years. But given the additional burden of the NPS report, we need help in the form of people ready to roll up their sleeves and deliver the work alongside us. State Historic Preservation cannot be successfully accomplished by a single agency. It requires the kuleana of everyone.

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

September 25, 2009

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER

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

Mr. Daniel Wenk, Acting Director
National Park Service
1849 C Street, N.W.
Washington D.C. 20240

Re: Hawaii State Historic Preservation Division, Department of Land and Natural Resources

Dear Mr. Wenk:

I am writing in response to your letter of September 3, 2009, (H32(2256)) in which you thank our offices for the assistance we provided during the National Park Service (NPS) technical assistance site visit, notify us of the forthcoming NPS technical assistance report, and raise concerns with six program areas the NPS team evaluated.

Due to recent communications between our offices, I felt it was important to address some of these concerns prior to the NPS report and to request further discussion between our offices to identify the most effective courses of action resulting from the site visit.

I am concerned that some of the actions recommended in your September letter will be detrimental and confusing, since they counter prior long-standing requests from NPS which we and others have invested effort and public outreach in moving forward. I am also concerned that further detailed discussions between our offices are necessary to identify the highest priorities for SHPD and the necessary resources to effect their implementation.

Your letter states that the site visit found significant problems in six program areas examined. While we would understand NPS having serious concerns two years ago, we hope NPS approaches any current concerns in a manner that gives full consideration to the demonstrated and measured progress SHPD has made in the past two years delivering specific work product that NPS requested we prioritize.

Allow me to address some of your concerns and the efforts and progress we have made in the six areas where you raise in your letter.

1. Survey and inventory of historic properties

According to Nancy McMahon, a 21-year archeologist and Deputy State Historic Preservation Officer, and Theresa Donham, a 35-year archeologist who has worked in state historic preservation offices in 10 states and Micronesia, SHPD does have and continues to maintain an inventory of historic properties in a standard format that is consistent with NPS standards. We have inventory files (both SIHP and NRHP files) for archeology, architecture, burial sites and cultural properties; the central files are current to 2005; each island office maintains the standard inventory for their island current to today. We are in the process of centralizing our files through a docu-share system and a centralized T-drive. Our Maui Archeologist had prepared to demonstrate the docu-share system for the NPS site visit, but unfortunately your staff did not have time for that demonstration.

SHPD formerly had a link on our Web site to a partial inventory file system with geospatial information system (GIS). That site was taken down in 2006 due to some concerns about access to information on burial sites and the fact that it was difficult to work with. I understand the NPS site team heard from some members of the public that this information was "lost." I assure you that the information and IT files remain intact – we simply took down the public link. We have been working with the Office of Hawaiian Affairs and the DLNR IT team to improve that system.

We are currently in discussion with the Department of Defense to determine if they can assist with automating our inventory and library. As you know, we were successful in working with DOD last year to obtain additional resources for SHPD. I've discussed the inventory automation project with the Deputy Assistant Secretary of the Army, Environment, Safety and Occupational Health, and he has designated his Hawaii personal representative to work with me on this matter, so we are optimistic that DOD will continue to provide some form of additional support this year as well.

While we agree with NPS that a centralized, automated inventory overlaid with a GIS component is ideal, we will need outside technical assistance since we do not have the staff expertise and it is an extremely extensive and expensive process to digitize and automate years of files, reports and studies.

2. Review and compliance

In the past two years, SHPD has made astounding progress in review and compliance. Two years ago the backlog of review was extremely large. SHPD routinely failed to complete regulatory reviews within the statutorily mandated timeframe.

Today we are fully current with all federal 106 federal reviews. In addition we are fully current on all islands with our state Chapter 6E reviews, with the exception of Maui. On Maui, where we had the largest backlog, we have significantly reduced that backlog and are close to being current in our reviews.

In the past two years we have also taken steps to bring enforcement actions to ensure landowners are complying with conditions to protect historic sites. Two examples

include an enforcement action against a developer for violations on Oahu and action to address a desecration of a heiau on Maui. In addition, staff is working closely with other DLNR divisions to ensure we coordinate efforts to protect historic sites. For example, SHPD staff worked with our Land Division to ensure commercial activity permits for unencumbered state land excludes sensitive sites such as heiau and provides penalties against violators.

3. Historic Preservation Planning

NPS has been requesting SHPD update the State Historic Preservation Plan for several years. This past year, SHPD created a Task Force of thirteen members, including Historic Hawaii, Society for Hawaii Archeology, Friends of SHPD, NPS, Office of Hawaiian Affairs, National Trust for Historic Preservation, Architectural Industry Association State Chapter, NOAA, and several committed individuals.

Members of the Task Force met in working session twice monthly to develop a draft outline, framework and plan. These volunteers were willing to dedicate significant amounts of professional and personal time as they, along with NPS, have been seeking an update of this plan to serve as a guide for the State, SHPD, County governments, NGOs and private sector. The Plan framework was presented to the Hawaii Review Board at a public meeting recently for comment and approval. The next step is to move forward with public meetings to gather broader input, and then finalize the Plan. This would be the first State Plan update in 10 years.

4. Certified local governments

This is another example of measurable improvements over the past two years. Between 2005-2007, SHPD did not distribute any portion of our federal grant to either of the two Certified Local Governments (CLG) in Hawaii. However, in order to meet NPSs request to prioritize this effort, in 2008 we contracted with the Maui CLG. They have successfully expended the full grant and we've sent NPS the final report. Today the DLNR Land Board approved the Kauai CLG contract for the 2009 grant. Historic Hawaii is working with Hawaii Island to create a third CLG, and if successful SHPD will be working with them as well in 2010.

5. Program Administration

Again, while recognizing we have areas for further improvement, in the past two years SHPD has completed the following NPS recommendations for programmatic improvements, which the Service asked us to prioritize:

- Adopted personnel policies per request by NPS
- Hired additional qualified staff, including an Administrator (Pua Aiu), two archeologists (Theresa Donham and Patti Conte), two Cultural Specialists (Phyllis Cayan and Analu Josephedes) an Urban Planner to fill the Keeper of the Register position (Ross Stephenson) and an Administrative Assistant (Randolph Lee)
- Completed approximately 15 Programmatic Agreements, Memorandum of Understanding and Memorandum of Agreements with a wide variety of agencies,

including the Federal Highways Administration, State Department of Transportation, Department of the United States Army, National Park Service and the Natural Resources Conservation Service.

- Timely filed an NPS approved End of Year grant report for FY 2008
- Met all additional NPS payment requests documentation and requirements and accurately accounted for grant funds and matching shares
- Developed a policy on archeological and architecture curation policy, which is currently being reviewed by NPS
- Followed NPS grant manual procedures consistently

6. Nominating eligible properties to the National Register of Historic Places

We would like to thank your team for the assistance they provided to our newest hire, Ross Stephenson, who is SHPD's Keeper of the Register. Prior to the technical review, Dr. Stephenson had begun organizing the State Register files and making initial determinations on which sites may be eligible for listing on the National Register. SHPD had been recommending sites for the State Register over the previous two years, but had not yet taken the step for the national recommendations. Your team validated many of Dr. Stephenson's initial determinations, and we are moving forward with that effort.

Another area in which we've made significant progress these past two years that is not subject to the federal grant as it's under exclusive state jurisdiction, but is of great importance to our program, is the reinterment of *iwi kupuna* that have been residing in SHPD inventory for years. Over the past two years SHPD has reinterred approximately 90 percent of *iwi* stored on Oahu. This has brought the inventory down from approximately 300 sets of *iwi* to about 25 sets of *iwi*.

Accordingly, in the past two years we've worked closely with NPS to address the areas the Service has asked us to prioritize, completed these tasks in a timely manner, and have brought the office into compliance with the grant requirements and federal law.

I would like to address my concerns about the NPS recommendations raised in your September 3 letter and during my phone call on August 12 with NPS staff.

First, your letter suggests we should cease efforts to update the State Historic Preservation Plan, reallocate staffing and funding resources instead to set up a central, automated inventory of historic properties. We are concerned that this abrupt change of focus will be extremely detrimental to the momentum of the Plan update and confusing for staff, the Task Force, Review Board and other people we've contacted during the outreach effort to update the plan. Furthermore, the expertise of SHPD staff and amount of funds dedicated to the Plan are not compatible with the resource expertise and financial needs to develop a centralized and automated inventory.

In my conversation with NPS staff on August 12, it appeared NPS was leaning towards offering SHPD a "resource team" comprised of NPS administrative staff who could identify areas of improvement and work plans for SHPD. Frankly, between the 2002 Legislative Audit, the 2007 Evaluation Team, the 2008 NPS staffer detailed to SHPD, and the recent technical assistance site visit, we have sufficient evaluations and work tasks identified. What SHPD needs is a technical team that can support our staff by delivering specific work product, as there is a finite amount of

product SHPD can produce. While we've diligently been addressing the areas NPS has asked us to prioritize these past two years, we won't be able to simultaneously address the next six areas NPS is now prioritizing.

I appreciate the fact that NPS recognizes that the State is facing significant budgetary and staffing challenges in these economic times. However, in the August 12 call, I received the distinct impression that NPS felt if it sanctioned SHPD then the State would provide additional funds and staff to the division.

I'm uncertain that NPS fully comprehends the dire fiscal situation of our State. We simply do not have the ability to provide additional funds or staff for this or other programs. Hawaii is a state with a population of 1.3 million people with a budget of approximately \$10 billion for the biennium. In the last year and a half, about \$3 billion in anticipated revenues has simply failed to materialize. You may be familiar with the fiscal situation in California which has drawn more attention. In comparison, if California were facing an equivalent size fiscal crisis for its population of 36.8 million people, the budget gap for that state would be approximately \$85 billion.

Our state has eliminated essential services, travel, IT upgrades, deferred payments, taken steps to reduce everywhere we can, including issuing layoff notices to over 1,100 state employees and, as of yesterday, reducing school days by 10% due to teacher furloughs. Our revenues continue to fall faster than predicted. Indeed, for the past eight quarters in a row each time our Council on Revenues met to establish the budget limits for the state, they downgraded their projections every time. And, once again, the actual tax collections these past two months have been 3.5% lower than their last prediction – to negative 5%.

In every division of our department, we are having to turn to federal and special funds to offset these significant losses of anticipated state general funds. Many of our staff are now working on a grant reimbursement basis and redirecting efforts to federally funded programs. Other federal partners have stepped forward to assist us in maintaining programs during this period. If NPS is willing to provide the resources to SHPD we may be able to retain the one position SHPD lost in the layoffs. However, in the absence of additional funds, the state simply is unable to maintain all positions in SHPD.

Our agency would very much like to work collaboratively with NPS to maintain our measured progress and programmatic improvements despite these difficult fiscal times. An important aspect of continuing improvement is recognizing the dedicated efforts of our staff to rectify inadequacies over these past two years, and I thank you for doing so in your letter.

It is possible that the technical site visit uncovered matters of which I am not aware and I welcome the NPS review with an open mind. However, I also ask that NPS carefully evaluate the information from the visit, and be mindful of the progress SHPD has made to date on the priorities and tasks NPS has set for us these past two years.

SHPD needs supportive partners who can roll up their sleeves and help us get the job done. I'd welcome the opportunity for further discussion with NPS to jointly determine the most effective form of assistance and resources to complete sequenced priorities over the next two years.

Mr. Daniel Wenk
September 25, 2009
Page 6

Please don't hesitate to contact me if you need further information or would like to discuss any of the matters I've raised in this letter. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to be 'LH Thielen', with a long horizontal flourish extending to the right.

Laura H. Thielen

c: Governor Linda Lingle
Senator Daniel K. Inouye
Senator Daniel K. Akaka
Congressman Neil Abercrombie
Congresswoman Mazie Hirono

TESTIMONY
SHPD 4/3/10
(END)

