

From: Tony Gaines
To: ben.schlapak@hawaii.gov
Date: Thursday, December 22, 2005 12:45:20 PM
Subject: Re: Categorical Exclusion Checklist for Paina Hawaii License Application

Mr. Schlapak,

At this point in time, we have not finished our Categorical Exclusion Checklist for Pa'ina Hawaii's License Application. As part of our technical review process, and to finish the checklist and make our determination, we contacted the U.S. Fish and Wildlife Service for a Section 7 consultation and the Hawaii State Historical Preservation Officer for a Section 106 Consultation. Additionally, as part of the Section 106 Consultation, we sent letters out to several Native Hawaiian Organizations. We have received a formal response from the U.S. Fish and Wildlife Service that indicated there were no problems with endangered species. As of today, we have not received the formal letter from the Hawaii State Historical Preservation Officer, however, Mr. Kohn provided us with an electronic version that indicated that the undertaking would have "no effect" on significant historic sites. However, the Hawaii State Historical Preservation Officer did recommend we contact two Native Hawaiian Organizations. We were fortunate in that we had already contacted one, but not the other, so we immediately followed up and sent this Native Hawaiian Organization a consultation letter on December 15, 2005. The consultation letters to the Native Hawaiian Organizations gave them from the date of receipt of the letter 30 days to reply. Therefore, at this time we are awaiting replies from the Native Hawaiian Organizations before we can complete our checklist. As you can see from the date that the last consultation letter was sent, it could be some time from mid to late January before we may be able to finish our checklist. As soon as we have completed the checklist and it is made publically available, we will forward you a copy of our results.

If you have additional questions or comments, please feel free to contact me via e-mail or by telephone at (817) 860-8252. Thanks.

Tony Gaines

>>> <ben.schlapak@hawaii.gov> 12/13/05 8:04 PM >>>

Please let us have a copy of the subject record of environmental consideration so that we can add it to our internal environmental review relative to the requested lease of land which we administer for the Paina Hawaii Irradiation Facility proposed at Honolulu International Airport (HNL).

We recognize your regulatory authority in these matters relative to safety, security and protection of the environment. An Opinion from our Attorney General's Office in 1999 is very clear about the authority of the Atomic Energy Act of 1954 and the Commerce Clause of the Constitution of the United States of America.

We have done these kinds of checklists in the past for the FAA relative to new aircraft being utilized on routes to HNL.

Your information will assist us in our own recommendations. Thanks for your assistance.

CC: Lyle.Wong@hawaii.gov; Whitten, Jack