



STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
711 KAPI'OLANI BOULEVARD, SUITE 500
HONOLULU, HAWAII 96813

HRD06

July 25, 2006

Colonel Howard Killian
Garrison Commander
Department of the Army
Headquarters, U.S. Army Garrison
Schofield Barracks, HI 96857-5000

Re: Notice of Violation, Programmatic Agreement (PA) among the United States Army Garrison, Hawai'i, the Hawai'i State Historic Preservation Office and the Advisory Council on Historic Preservation for Section 106 Responsibilities for the Army Transformation of the 2nd Brigade, 25th Infantry Division (Light) to a Stryker Brigade Combat Team (SBCT)

Dear Colonel Killian:

The Office of Hawaiian Affairs (OHA) is formally objecting to the implementation of the aforementioned Programmatic Agreement (PA) pursuant to Section VI of the PA entitled Administrative Stipulations, and specifically, under section VI (C) Dispute Resolution.

OHA has been monitoring the implementation of the PA for proper implementation of the agreement, specifically portions related to cultural monitoring, for the past year and our concerns have materialized into an invocation of dispute resolution due to recent infractions.

On July 24, 2006, the Native Hawaiian Historic Preservation Council (NHHPC), an advisory body within OHA, which makes recommendations to the OHA Board of Trustees, made a motion which stated:

"The NHHPC requests the BOT provide immediate legal assistance to Kahu Nana to deter any further desecration of Heiau Haleauau complex to enforce the SBCT Programmatic Agreement to which OHA is a signatory."

This recommendation, made in response to compelling testimony by beneficiaries of OHA concerned with the good faith implementation of the PA, will be formally transmitted to the BOT for possible action at an upcoming meeting. It is unclear at this point, what action by the board may be taken. However, what is clear, based upon recommendations from staff in our Native Rights,

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Land and Culture Hale, is that there have been many documented instances of non-compliance with both the spirit and intent of the PA in this very culturally sensitive area of concern.

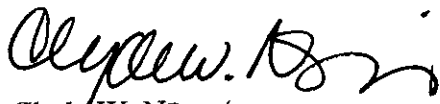
It appears that the recent incursion into the established protective buffer area for the culturally significant Haleauau Heiau over this past weekend was a direct result of implementation of severe limitations on the ability of cultural monitors, as contemplated by the PA signatories and concurring parties, to effectively perform their important duties.

While OHA appreciates your July 24, 2006 directive for a cessation of UXO clearance-related activities in the Schofield BAX area until further authorization, as communicated by Mr. Mark Katkow, Attorney Advisor for the 25th Infantry Division, in his email dated the same, OHA may pursue other legal recourse if necessary to enjoin such actions that we deem in serious non-compliance with the PA.

OHA will have representatives in attendance at the 5:00 p.m. meeting tonight at Garrison Command and look forward to your attention to this serious and most sensitive matter.

If you have any questions or concerns, please contact Kai Markell, Policy Advocate, at 594-1945 or kaim@oha.org. Once again, thank you for your patience during our review and assessment of this important matter.

‘O wau iho nō,



Clyde W. Nāmu‘o
Administrator

- c. OHA BOT
 - Peter Young, Chairperson, DLNR
 - Mark J. Katkow, Attorney Advisor, 25th ID
 - Valerie Hauser, ACHP
 - Laurie Lucking, USAG HI DPW
 - Tom Lenchanko, Kahu Nana
 - Alika Silva, Koa Mana
 - Concurring Parties
 - Hui Mālama I Na Kupuna ‘O Hawai‘i Nei
 - Royal Order of Kamehameha I
 - O‘ahu Council of Hawaiian Civic Clubs
 - O‘ahu Island Burial Council
 - Hawai‘i Island Burial Council
 - National Park Service
 - Waimea Hawaiian Civic Club