

## 6 COMPLIANCE WITH FEDERAL ENVIRONMENTAL REGULATIONS

### 6.1 SECTION 106 CONSULTATION, NATIONAL HISTORIC PRESERVATION ACT

The National Historic Preservation Act (NHPA) sets forth government policy and procedures regarding “historic properties” – that is, districts, sites, buildings, structures, and objects included in or eligible for the National Register of Historic Places. Section 106 of the NHPA requires that federal agencies consider the effects of their actions on such properties.

#### 6.1.1 History of Consultation

**Scoping.** Prior to the start of formal Section 106 consultation, project planners held scoping meetings and informal consultation with several agencies and individuals to discuss cultural resources in the project area. These meetings included the following:

November 18, 2003	Sara Collins, State Historic Preservation Division
January 29, 2004	LaFrance Kapaka-Arboleda, Office of Hawaiian Affairs-Kaua'i L. Kēhaulani Kekua, Kaua'i Heritage Center Pohaku Nishimitsu and members of Halau Kanikapahuolohi'au
June 25, 2004	Heidi Kai Guth and Matthew Myers, Office of Hawaiian Affairs-Honolulu

**Initiation of Section 106 Process.** To initiate formal consultation under Section 106, the FHWA sent letters to the following agencies on July 9, 2004. An example of this letter is provided in Appendix C.

- P. Holly McEldowney, State Historic Preservation Division
- Clyde Namu'o, Office of Hawaiian Affairs

Letters to other stakeholders were sent by Kimura International on July 15, 2004.

- Ian Costa, County of Kaua'i Planning Department
- LaFrance Kapaka-Arboleda, Kaua'i/Ni'ihau Island Burial Council
- Sabra Kauka, Na Kahu Hikinaakalā
- Kunani Nihipali, Hui Malama I Ka Kupuna o Hawai'i Nei
- Sharon Ortiz, Friends of Lydgate Park
- Daniel Quinn, Division of State Parks
- Mary Requilman, Kaua'i Historical Society
- David Scott, Historic Hawai'i Foundation

- Rick Tsuchiya, Kaua‘i Historic Preservation Review Commission

Based on the recommendation of the SHPD, letters were sent to two additional organizations on July 26, 2004.

- Pohaku Nishimitsu, Halau Kanikapahuolohi‘au
- L. Kēhaulani Kekua, Kaua‘i Heritage Center

### **6.1.2 Feedback from Consulted Parties**

As of September 3, 2004, comments were obtained from six agencies, organizations, or individuals. Key points and issues of concern are summarized below.

#### State Historic Preservation Division

Letter dated July 12, 2004

- Concurrence with the Area of Potential Effect (APE) as described.
- Several historic properties on or eligible for the National Register are situated along the proposed shoreline path, including the Wailua Complex of Heiau, Kukui Heiau, cultural deposits, and inadvertent burial sites.
- Prefer a more mauka route that would avoid most of the historic sites.
- Recognition that members of the public have favored the makai route.
- Given the probable adverse effects, a Memorandum of Agreement will be needed to provide for mitigation measures, including archaeological monitoring.
- Primary concern is adverse effects of close proximity to Kukui Heiau and Wailua Complex of Heiau.
- Path would need to be routed off the heiau with a sizeable buffer zone.
- Increased vegetation or landscaping buffer and signage might also help mitigate adverse effect of bicycle and pedestrian traffic.

Division of State Parks

Letter dated July 21, 2004

- Concern about potential effects at the Lydgate end on Hikinaakalā Heiau.
- Importance of maintaining historical setting and cultural landscape, including open space buffers.
- Previous archaeological testing alongside cane haul bridge did not identify any cultural deposits.
- Request for guardrails or vegetation hedges on the makai side of the path to buffer it from Hikinaakalā Heiau.
- Signs are needed to increase user awareness about the heiau and keep them on the designated path.
- The petroglyph boulders are approximately 250 feet from the cane haul bridge, and no adverse impact is expected unless a new bridge is constructed makai of the cane haul bridge, in which case mitigations are needed to insure the preservation of the site.

Kaua‘i Historic Preservation Review Commission (KHPRC)

Memoranda dated July 12, and August 9, 2004

The KHPRC sent two memos referencing its July 1 meeting, during which the Commission discussed and passed a motion on the proposed action. The first memo (dated July 12) stated that the KHPRC concurred with the SHPD’s letter dated May 4. However, the second memo (dated August 9) stated that the KHPRC concurred with the SHPD’s letter of June 21. The KHPRC actually concurred with the May 4 letter by unanimous verbal acclamation.

The wording of the two SHPD letters is different, especially with regard to potential development in the vicinity of Kukui Heiau. While the actual meaning of the texts do not appear contradictory, and the SHPD has not ruled out a path mauka of Kukui Heiau, there is a change in the tone and emphasis between the two letters. The KHPRC’s revised endorsement suggests that the restrictive tone of the June 21 letter is more in line with their own perspective.

May 4 letter addressed to Glenn Kimura, Kimura International, from the SHPD (responding to a request for early consultation on the DEA)

As presented in the pre-assessment consultation, our main concern is Kukui Heiau. As currently shown, the path either goes through or very close by the heiau. The path would need to be routed away from the heiau, and realistically, the only safe route is behind the heiau. Although we would prefer at least a 200-foot buffer

around such a sacred site, we acknowledge that this is difficult to do at Kukui Heiau since the privately owned Lae Nani Condominium pool itself is fairly close to the site. So, in this case, routing people of and away from the site is a better plan than current conditions at the site. The County of Kauai Public Works Department is aware of our concerns, and concurs with them.

June 21 letter addressed to David Shideler, Cultural Surveys, Hawai'i from the SHPD (providing review comments on the archaeological assessment for the project)

The coastal trail has the most potential to have an "adverse effect" on historic sites listed on or eligible for listing on the National Register of Historic Places. To the extent possible, we would recommend complete avoidance of these sites. It is also possible that, in some locations, an adverse effect may be mitigated through archaeological monitoring of ground-disturbing activities associated with the proposed path that may adversely affect cultural deposits and inadvertent burials, where subsurface construction would take place in sandy subsoils. In any case, we strongly recommend that the pathways need to be around heiau sites with substantial buffer zones established – ideally 200 feet on all sides of these sacred sites...

Kaua'i/Ni'ihau Island Burial Council (KNIBC)

Meeting with Chair, LaFrance Kapaka-Arboleda on July 2, 2004

Presentation to the Council on July 7, 2004

- Heiau needs to be taken out of private ownership. The divided interest means a sense of division within the Hawaiian community. The ownership issue needs to be resolved for the next generation.
- It might not be realistic to expect people not to go into the heiau, but it's still preferable to try to navigate most people around it.
- If there's an inadvertent discovery of iwi (human remains), KNIBC's role is advisory to the SHPD. If the burial is known, then KNIBC has jurisdiction. There's a gray area if you find a new burial within a designated burial area.
- The availability of reburial sites within the project corridor is not a problem.

Office of Hawaiian Affairs

Informal briefing held on June 25, 2004 with Heidi Kai Guth and Matthew Myers, OHA

OHA staff had met with cultural practitioners and conducted a site visit of the project area. Ms. Guth relayed comments that were raised during those discussions.

- There was support for the decision not to skirt Hikinaakalā Heiau. However, to further prevent people from going through the heiau, suggestions were made for additional

signage indicating how users can get to the path mauka of Aloha Beach Resort, clearer wording on signs that the heiau is a sacred site, and demolishing the pavement that extends from the parking lot toward the hotel.

- At Kukui Heiau, the cultural practitioners felt it would be desirable to have a land swap with Lae Nani so that the path could go around the heiau. The public access between Lae Nani and Kauai Sands was originally put in to provide access to the heiau. However, the access generates a lot of traffic from people who use it for other purposes, such as going to the keiki pool, weddings, etc. The situation is compounded by the lack of signs for the heiau on the south side; the only sign is on the north side.
- In terms of a buffer, what would be objectionable is fencing that would disrupt the cultural landscape. It would be preferable to plant naupaka or other native vegetation (for example, to screen the Lae Nani pool and lawn from the path). The cultural practitioners recognize that people need to go past the heiau, the issue is how they can do this with sensitivity to surrounding users (Lae Nani).
- The cultural practitioners see the shared use path as an opportunity to (1) protect cultural sites and (2) provide confirmed lateral beach access (the loss of which is perceived to be a problem on Kauai).
- They favor the shoreline alternative over the inland roads alternative because the latter includes provisions to improve the mauka-makai beach accesses, which they see as “dumping more people on the coast” without necessarily educating them about the significance of cultural resources on the coast.
- In the Wailua House Lots area, the cultural practitioners favor the northern route (Alternative W1) so that ground disturbances would occur as far away as possible from Coco Palms, where bones are likely to be found. For this reason, the path along the drainage canal mauka of Coco Palms would also be of concern.
- OHA would like to be a signatory to the MOA. OHA and the cultural practitioners would also want to be involved in developing interpretive signs.

Kēhaulani Kekua

Comments offered at a public meeting held on July 1, 2004.

- I’m concerned about the perpetuation and protection of our cultural practices. The island is growing fast. When I was a kid, roads were safe. Now it’s crazy. Kids need a safe place to play, so I support the path. But I’m concerned about Kukui Heiau, which is not well taken care of. If people claim to own it, then respect it; not desecrate it. Now, the Lae Nani security guards confront people who pass by this area. I don’t support a path near Kukui because of impacts on spiritual/cultural practices. But we need to have access. Route must benefit everyone (residents and visitors) in a way that doesn’t take away from Kapa‘i, take path away from cultural sites. Start to malama

(protect) now. The condo used to maintain the heiau site before. The community needs to participate. I like the Papaloa Road idea.

### **6.1.3 Finding: Probable Adverse Effects on Historic Sites**

The project sponsors agreed with the SHPD that the proposed undertaking will have probable adverse effects on significant historic sites.

**Hikinaakalā Heiau and Pu‘uhonua o Hauola.** These two sites are part of the Wailua Complex of Heiau, a National Historic Landmark. Although there are no alternatives that impact directly on Hikinaakalā or Pu‘uhonua o Hauola, the Division of State Parks and OHA commented that there are unresolved issues related to the existing path in Lydgate Park and, now, the connection with the proposed Lydgate-Kapa‘a segment. Both agencies expressed concern that the north end of the path in Lydgate Park is inadequately signed to prevent people from going through the heiau. Other visual cues, such as remnant paving, appear to suggest that it is permitted for people to pass through the area. Clearer design strategies are needed both at the interface of Lydgate Park and the heiau, and between the Aloha Beach Resort cul-de-sac and the bridge to deter pedestrian and bicycle traffic.

Project Response: In light of concerns conveyed by State Parks and OHA, an alternative using the railroad easement adjacent to Hikinaakalā Heiau was dismissed early in the planning stage. Concerns about a clear separation between the heiau and the bike/pedestrian path will be mitigated with signage and landscaped buffer.

**Pohaku (boulders) with petroglyphs.** According to some scholars, the petroglyph pohaku (Ka Pae Ki‘i Mahu o Wailua (State Historic Site No. 50-30-08-105A) are extensions of Hikinaakalā and Pu‘uhonua o Hauola, which would make them equally important artifacts. However, because the boulders are an estimated 250 feet away from the cane haul bridge, the Division of State Parks commented that the proposal to attach a cantilevered bike/footbridge to the existing bridge would not affect the boulders.

Project Response: Given the distance between between the petroglyph site and the cane haul bridge, any endangerment to the boulders is unlikely.

**Kukui Heiau.** Kukui Heiau is not part of the Wailua Complex of Heiau, but for all intents and purposes, is accorded the same level of respect by the Hawaiian community. All of the stakeholders consulted expressed concern about its current status, namely, partial ownership by a private entity and disruptions to the sacredness of the site by commercial activity (weddings), inappropriate behavior (happy hours, picnicking and littering), and people walking through the site to cross the beach. There is a spectrum of opinions on whether the proposed bike/pedestrian path should play a role in resolving the problems at Kukui Heiau.

OHA and the cultural practitioners it consulted favor the establishment of a dedicated path around the heiau with appropriate signage and landscaped separations. SHPD has repeatedly called for a “sizeable buffer” with the suggestion of 200 feet, although site conditions do not allow this much separation. SHPD has also suggested landscaping and signage, which may compensate for some of the distance desired. KHPRC concurs with SHPD. Pohaku Nishimitsu, who heads a halau that is interested in being caretakers of Kukui Heiau, stated that he favors a path around the heiau.

Other cultural practitioners, including Kēhaulani Kekua and James Alalem, are opposed to any path near the heiau or improvements to the mauka-makai access that would increase the number of people coming into the heiau site.

Project Response: The County DPW selected a final alignment for the bike/pedestrian path that is located away from Kukui Heiau; therefore, the project will have no impact on this cultural resource.

**Burials (known sites and inadvertent discoveries).** The path is likely to include sections that pass through sandy subsoils (for example, the Wailua Beach section and Waipouli resort spur), where there is a probability that the path will unearth burials or cultural artifacts. These encounters are adverse effects, but mitigation measures (such as archaeological monitoring, possible subsurface testing, and a burial treatment plan) are straightforward.

Project Response: Appropriate procedures are contained in the Section 106 Memorandum of Agreement (MOA).

**Wailua River Plantation (or Cane Haul) Bridge.** An historic resources survey, *Historic Resources Survey, Evaluation and Impact Assessment of Kapa‘a Relief Route, Kūhiō Highway Corridor Improvements Project, Hanamā‘ulu to Kapa‘a*, (Mason Architects, December 2003) concluded that the plantation bridge meets the National Register of Historic Places, Criteria A (contributing to the broad patterns of local history) and C (distinctive type of construction). The new bike/pedestrian path includes a proposal to attach a cantilevered structure to the existing plantation bridge. Although the bridge has been modified in the post-World War II era, the Mason Architects study noted that “the bridge retains enough original physical features to convey the feeling and association of its historic character and use as a railroad bridge.” Proposed modifications to the bridge will affect the bridge’s design and appearance.

The Mason study recommended Historic American Engineering Record (HAER) documentation of the bridge, with the appropriate level of document to be determined by SHPD and/or installation of a historic marker near the site describing the history of the bridge, including historic photo(s) of it.

Project Response: HAER documentation of the historic bridge is provided for in the Section 106 MOA.

**Coco Palms.** OHA expressed concerns about the possibility of encountering burials in the Coco Palms area.

Project Response: The route along the drainage canal, mauka of Coco Palms, was not included in the preferred alignment because of space constraints on Kuamo‘o Road and distance from the main north-south travel corridor. Although this project does not involve construction on or adjacent to Coco Palms, the Coco Palms developer will provide public access via a pedestrian bridge across Kūhiō Highway and a shared path on the mauka side of the highway from the pedestrian bridge to Hale‘Īlio Road. These improvements are conditions of development required by the Kaua‘i Planning Commission.

#### **6.1.4 Resolution of Adverse Effects**

The County and FHWA completed a Memorandum of Agreement (MOA) with SHPD that specifies the measures to be taken to avoid, minimize, and/or mitigate adverse effects. A copy of the MOA is included in Appendix C.

## **6.2 SECTION 7 CONSULTATION, ENDANGERED SPECIES ACT**

The Endangered Species Act (ESA) requires that actions that are federally funded, authorized, or carried out be done in a manner so that it does not jeopardize the continued existence of any plant or animal species listed as threatened or endangered, or destroy or adversely modify any designated critical habitat. The Section 7 process included consultation with the U.S. Fish and Wildlife Service (FWS) for protected aquatic and avian species and the National Marine Fisheries Service (NMFS) for protected marine mammal species.

By letter dated August 11, 2005, the FWS commented as follows:

- Concurrence with the EA’s conclusion that the project is unlikely to have negative impacts on listed waterbirds, and that native wildlife will benefit from the removal of a feral cat “feeding station” in the vicinity of the project area.
- Agreement with the EA’s determination that existing federal and State protection and public outreach programs are sufficient to minimize adverse effects on sea turtles that may haul out in the vicinity of the proposed bike/pedestrian path, especially given the likely low frequency of this occurrence.
- Concurrence with the EA’s determination that the project is unlikely to adversely affect the two listed seabird species if lighting associated with the bike/pedestrian path is shielded to prevent light from “leaking” upward and disorienting birds traveling to or

from their mountain nesting areas. If lights are set directly into the railings or guard rails on the Wailua River bridge, then the FWS recommends that the lowest wattage bulbs and shortest possible poles be used.

By letter dated July 15, 2005, the NMFS commented on impacts to Hawaiian monk seals that are known to haul out on beaches along the shoreline path alternative. The letter contained no objection to the project, but concurred with proposed mitigation measures in the DEA and suggested additional measures to minimize human interaction with seals. However, the potential monk seal haul out area, including the shoreline from the Seashell Restaurant to the Mokihana/Bull Shed Restaurant, was not selected for the preferred alignment. Therefore, the project will have no impact on Hawaiian monk seals.

Although the Natural Resources Conservation Service (NRCS) does not have regulatory jurisdiction under the ESA, this federal agency was also consulted given the recent establishment of a conservation easement in Kapa‘a under the Wetland Reserve Program, their familiarity with endangered and threatened avian species in the project corridor, and the potential to explore joint development opportunities. By letter dated July 6, 2004, the NRCS stated that while the path might offer birdwatching and nature education benefits, there were larger concerns about path users interfering with wetland restoration efforts. The final alignment does not pass in the vicinity of the NRCS conservation easement.

### **6.3 EXECUTIVE ORDER 11990 PROTECTION OF WETLANDS**

Executive Order 11990 was issued to minimize the destruction, loss or degradation of wetlands and to preserve and enhance the natural and beneficial values of wetlands. This executive order requires Federal agencies, in their planning actions, to consider alternatives to wetland sites and limit potential damage if an activity affecting a wetland cannot be avoided. The project will not take any wetland. A 600-foot section of the path between Wailua Shopping Plaza and the temporary bypass road passes through wetlands but the path itself is located on the raised roadbed of a former agricultural road.

### **6.4 EXECUTIVE ORDER 11988 FLOODPLAIN MANAGEMENT**

Executive Order 11988 requires federal agencies to avoid, to the extent possible, the long- and short-term adverse impacts associated with occupancy in and modification of floodplains. It also requires agencies to avoid direct and indirect support of floodplain development wherever there is a practicable alternative. Portions of the proposed path are located within designated floodplains based upon the Flood Insurance Rate Map (FIRM) for the area. As discussed in Section 4.1 of this document, the planned improvement will not increase the base flood elevation.

The improvements would generally consist of a paved path at grade, ranging in width from 8 to 12 feet. Runoff from the impervious surface of the path would sheet flow and be absorbed by the graded shoulders. The main structural component is an attachment to the existing Wailua cane haul bridge. The final design of bridge improvements will be coordinated with the U.S. Corps of Engineers to obtain the necessary Department of Army permits.

## **6.5 COASTAL ZONE MANAGEMENT ACT**

The Coastal Zone Management Act (CZMA) encourages the management of coastal areas. When conducting activities affecting a coastal zone, the CZMA requires federal agencies to be consistent with the enforceable policies of State coastal zone management programs (in Hawai‘i, under the jurisdiction of the State Office of Planning). The CZMA is intended to ensure that federal activities are consistent with State programs for the protection and, where possible, enhancement of the nation’s coastal zones.

The State’s Coastal Zone Management policies and regulations are prescribed under Chapter 205A, HRS. The coastal zone management area (also known as the special management area or SMA) is defined to include all lands of the State and the areas extending seaward from the shoreline to the limit of the State’s management authority. As a result, the project corridor is within this CZM/SMA area and subject to consistency with the CZM programs objectives and policies.

The federal CZM consistency review will be carried out in conjunction with the Department of Army permit application. The proposed bike/pedestrian path is also required to obtain an SMA (Major) permit from the County.

## **6.6 FARMLAND PROTECTION POLICY ACT**

The Farmland Protection Policy Act (FPPA) requires that federal agencies identify and consider the adverse effects of their actions on the preservation of farmland. Although the proposed shared use path traverses land that is in the State Agricultural District, it uses abandoned cane haul roads and no farmlands are impacted.

## **6.7 SECTION 4(f), U.S. DEPARTMENT OF TRANSPORTATION ACT**

Section 4(f) of the U.S. Department of Transportation (USDOT) Act of 1966 (49 USC §303(c)) declares that “it is the policy of the United States Government that special effort should be made to preserve the natural beauty of the countryside and public parks and recreational lands, wildlife and waterfowl refuges and historic sites.” Section 4(f) applies to historic sites and designated publicly owned parks, recreational areas, and wildlife and

waterfowl refuges that are determined by the FHWA to have national, state, or local significance. Under the Act, the Secretary of Transportation cannot approve a project requiring the “use” of a Section 4(f) property unless “(1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use.”

Four 4(f) resources are potentially impacted by the proposed shared use path:

- Wailua Plantation (Cane Haul) Bridge
- Wailua Beach Park
- Lihi Park (Waipouli Beach Park)
- Wailua River State Park

#### Negative Declaration/Section 4(f) Statement for Independent Bikeway or Walkway Construction Projects

A programmatic Section 4(f) evaluation for impacts on park lands was prepared within the framework of the *Negative Declaration/Section 4(f) Statement for Independent Bikeway or Walkway Construction Projects*. The entire document is attached as Appendix A. Because Land and Water Conservation Funds (LWCF) were used to improve Wailua Beach Park, Section 6(f) provisions are also applicable to the proposed project and a 6(f) evaluation was folded into this document. By letter dated August 22, 2006, the Division of State Parks indicated that use of 6(f) park land for the path should not constitute a “taking” because the path promotes outdoor recreation and remains under the jurisdiction of County Parks.

The project is applicable for these programmatic evaluations by satisfying the following criteria:

- Involves the use of recreation and park areas established and maintained primarily for active recreation, open space, and similar purposes. *Wailua Beach Park and Lihi Park are on the County’s inventory of park lands and contain parking areas, user amenities (portable toilets, showerheads, picnic tables, and trash receptacles), and lifeguard station (in the case of Wailua Beach Park).*

*Wailua River State Park contains major cultural sites and offers river-oriented recreation opportunities. The HDOT Highways Division is finalizing a transfer of land containing the cane haul bridge and its approaches from the Department of Land and Natural Resources. The bike/pedestrian path will be located within this right-of-way. Although the path will not have a direct impact on State park land, the Division of State Parks has raised concerns about indirect impacts on nearby cultural sites from a potential increase in public traffic (letter dated August 22, 2006). The County DPW will mitigate such impacts through path design, railings, landscaping, and signage.*

- Officials having specific jurisdiction over the Section 4(f) property have given their approval in writing that the project is acceptable and consistent with the designated use of the property and that all possible planning to minimize harm has been accomplished in the location and design of the bikeway or walkway facility. *A letter of approval from the County of Kaua‘i is attached to this programmatic statement.*
- Project does not require the use of critical habitat of endangered species. Nor does the project use any land from a publicly owned wildlife or waterfowl refuge or any land from a historic site of national, State, or local significance. *The park areas affected do not contain critical habitats or significant historic resources.*
- Project does not involve any unusual circumstances (major impacts, adverse effects, or controversy). *The pathway will provide a facility that enhances the recreational experience of the parks and make them more accessible to a larger number of people.*

Nationwide Programmatic Section 4(f) Evaluation for FHWA Projects that Necessitate the Use of Historic Bridges

A separate Programmatic Statement was prepared for the Wailua Plantation Bridge, as permitted by the *Nationwide Programmatic Section 4(f) Evaluation for FHWA Projects that Necessitate the Use of Historic Bridges*. The evaluation and approval is attached as Appendix B.

**6.8 EXECUTIVE ORDER 12898 ON ENVIRONMENTAL JUSTICE AND TITLE VI OF THE CIVIL RIGHTS ACT OF 1964**

Executive Order 12898 on Environmental Justice (EJ) requires each federal agency and recipients of federal funds to take appropriate steps to identify and address “disproportionately high and adverse human health or environmental effects” of federal projects on minority or low income populations. Similar non-discrimination protection is provided under Title VI of the Civil Rights Act of 1964, U.S. DOT Order 5610.2 on Environmental Justice, and other related regulations and directives.

Outreach efforts for this project included three public meetings held in Kapa‘a (see also Section 10.2). Each meeting was announced in *The Garden Island*, two local radio stations, and the public access television station. Additional outreach efforts were made through the Section 106 consultation process on historic and cultural resources. All individuals who expressed an interest in this project (by attending a previous meeting, referral, or self-identification) were sent notices of upcoming public meetings. Attendance at the meetings ranged from 50-75 persons, and included a broad and representative cross-section of the local community. Minutes of these meetings record the diversity of opinions expressed by those who attended.

Based on the above discussion, the bike/pedestrian path build alternative will not cause disproportionately high and adverse effects on any minority or low-income population as per E.O. 12898 regarding environmental justice.

The Kaua‘i DPW will continue to inform members of the public and solicit input through the design and construction stages of the project.

## **6.9 U.S. Coast Guard**

The U.S. Coast Guard, 14<sup>th</sup> District has jurisdiction over waterway management on Wailua River. However, after evaluating potential project impacts on navigation, the Coast Guard determined that the cane haul bridge is not subject to federal permitting by the USCG (letter dated November 6, 2006).

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