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Congratulations Board Member Carl Christensen
Moana is late 2025 (Star-Advertiser, 2/27/20, Gordon Pang). The current projected completion date for rail to Ala Moana Center, will experience future sea level rise and to provide the option of going down Beretania Street ending at UH Manoa rather than through downtown Honolulu to Ala Moana Center.

In addition, operating and maintaining the completed system is "expected to cost the city on the order of $140M a year…the cost will increase in increments from there" (Civil Beat, 8/27/20). At present, neither the City nor HART has specified how these costs will be paid.

In October (Star-Advertiser Oct. 2 "Swamped") we learned that future sea level rise will severely impact low-lying portions of central Honolulu from Waikiki to the airport, with "flooding at high tide on a daily basis within only two or three decades.” These flooded areas include the last five miles of the current rail route, meaning that seven of the proposed rail stations, from Middle Street to Ala Moana Center, will experience daily flooding as early as 2040, only fourteen years after its planned completion (2026).

In addition to affecting many lives COVID-19 has decimated Hawai'i’s economy and the general excise tax revenues, which normally flow from it. According to most projections, a return to pre-COVID economic activity is at least four to five years away.

The expected dramatic shortfall in GET revenues requires city and state governments to reexamine all public expenditures, including those for the rail project. In line with the drop in tax revenue and costs soaring to a projected $10 billion-plus rail construction needs to be paused at the earliest possible opportunity.

The construction cost of the final 4.1 miles of the current rail plan is likely to be "over $2B", the amount disclosed by the CEO of Tutor-Perini Corporation in their PPP bid (Civil Beat, 9/18/20). This means that each mile will cost approximately $600-650 million dollars per mile. At present, the City has $1.4B in anticipated revenue (including $744 million from the FTA) for this construction.

The current projected completion date for rail to Ala Moana is late 2025 (Star-Advertiser, 2/27/20, Gordon Pang). Meeting this date requires approximately 1.05 miles of guideway construction per year for four years (2022-25). Using these numbers and delays in utility relocation, it is estimated that guideway and station construction to the Iwili Station area would not be completed until late 2024 at the earliest and late 2028 at the latest.

In addition, operating and maintaining the completed system is "expected to cost the city on the order of $140M a year…the cost will increase in increments from there" (Civil Beat, 8/27/20). At present, neither the City nor HART has specified how these costs will be paid.

Hawai'i's Thousand Friends supports a new approach to finishing and rerouting rail in the future. We agree with the Renroute the Rail campaign that the train should be moved to higher ground to avoid areas of future sea level rise and to provide the option of going down Beretania Street ending at UH Manoa rather than through downtown Honolulu to Ala Moana Center.
Hawaii’s Public Trust Doctrine

Long before Hawai‘i became a territory and state, the Hawaiian Kingdom - as with the English monarchs - held land in trust for the common good. In granting land ownership interests during the Great Mahele in 1848 the Hawaiian Kingdom expressly reserved its sovereign prerogatives to encourage and even to enforce the use and enjoyment of lands for the common good. By maintaining this sovereign right, a public trust was imposed upon all the waters of the kingdom. The public interest in the waters of the kingdom necessitated retention of authority and the associated duty to maintain the purity and flow of Hawai‘i’s water for future generations.

Count I Against the City
(Failure to exercise public trust responsibilities to protect fresh and marine water resources the park, and the MLCD in violation of the Hawai‘i Constitution, Article X-Section 1, Article X-Section 7 and Common Law Public Trust Doctrine)

Article X-Conservation, Control and Development of Resources

Section 1 - For the benefit of present and future generations, the State and its political subdivisions shall conserve and protect Hawai‘i’s natural beauty and all natural resources, including land, water, air, minerals and energy sources, and shall promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State.

All public natural resources are held in trust by the State for the benefit of the people.

Section 7 Water Resources – The State has an obligation to protect, control and regulate the use of Hawai‘i’s water resources for the benefit of its people.

Count II against all defendants
(Right to a Clean and Healthful Environment in Violation of Hawai‘i Constitution, Article X-Section 9 Environmental Rights)

Each person has the right to a clean and healthy environment, as defined by laws relating to environmental quality, including control of pollution and conservation, protection and enhancement of natural resources. Any person may enforce this right against any party, public or private, through appropriate legal proceedings, subject to reasonable limitations and regulations as provided by law.

Count III – Against City
(Failure to follow the North Shore Sustainable Communities Plan in Violation of Hawai‘i Revised Statute (HRS) Chapter 205A & Revised Ordinances of Honolulu (ROH) Chapter 25)

The O‘ahu General Plan was adopted in 2002 and sets forth the City’s broad policies for long-range development with the 8 Development/Sustainable Communities Plans serving as detailed schemes for implementing and accomplishing the development objectives and policies of the General Plan.

The North Shore Sustainable Communities Plan (NSSCP), adopted in 2011 by ordinance has the force and effect of law, details the goals for the region to remain country, with wide open space, vistas and rural communities and to be an essential haven and respite for urban Honolulu.

The Hawaii Supreme Court ruled that in 1998 that “the county general plan does have the force and effect of law insofar as the statute requires that a development within the Special Management Area must be consistent with the general plan.”

The Court also held that a community plan “adopted after extensive public input and enacted into law” is part of the General Plan.

Count IV - Against Department of Planning and Permitting (DPP)
(Improper issuance of after-the-fact Special Management Area (SMA) **Minor Permit Conditions, in violation of HRS 205A & ROH Chapter 25)

Hawai‘i Revised Statutes (HRS) §205A-2 requires all State agencies to consider the objectives, policies, and guidelines of the Coastal Zone Management Act, HRS 205A, and the rules and regulations issued hereunder and to enforce them with respect to any development within or affecting the SMA.

HRS §205A-2 requires that all agencies give full consideration to the “ecological, cultural, historic, esthetic, recreational, scenic, and open space values” before and/or when taking or allowing actions that impact resources within the SMA.

Count VII – Against City
(Improper acceptance of inadequate Environmental Impact Statement (EIS) in violation of ROH Chapter 25 & Hawai‘i Administrative Rules (HAR) Title 11, Chapter 200)

For SMA Major Permits, ROH Chapter 25 requires applicants to submit an environmental impact statement (EIS) for review.

Among other things Plaintiffs allege that the Final EIS didn’t “fully declare the environmental implications of the proposed action and... discuss all relevant and feasible consequences of the action. In order that the public can be fully informed and that the agency can make a sound decision based upon the full range of responsible opinions on environmental effects, a statement should include responsible opposing views, if any, on significant environmental issues raised by the proposal.” HAR §11-200-16 Draft EIS Content Requirements

The FEIS did not properly evaluate the “secondary or indirect” impacts or effects related to the Proposed Development, defined in HAR §11-200-2 as “effects which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.” HAR §11-200-17(f)

The FEIS did not evaluate the “cumulative impact” related to the Proposed Development, defined in HAR §11-200-2 as “the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.”

Preserving and protecting Sharks Cove for future generations

Sharks Cove on O‘ahu’s North Shore is a global treasure, a fragile coastal ecosystem that is part of the Pupukea Marine Live Conservation District (MLCD), whose water quality is now threatened by a -acre, $18 million dollar, 34,500 square foot commercial tourist-oriented development across from this marine protected area.

Despite three years of community opposition, a history of over $200,000 in assessed fines, continuing violations of the law, and the failure to demonstrate compliance with the high standards of the state and county laws that protect Hawaii’s precious coastal resources, developer Hanapohaku was granted a fast-track approval by the Honolulu City Council and Department of Planning and Permitting to build across from Sharks Cove.

Here are some of the claims alleged in the First Amended Complaint, which explain the reasons HTF joined Save Sharks Cove Alliance, Malama Pupukea-Waimea, Surfrider Foundation, Larry McElheny, Cora Sanchez and John Thiels in the lawsuit against the City and County of Honolulu, Honolulu City Council, the Department of Planning and Permitting and Hanapohaku, the landowner.

Photo: Manuel Jose Cruz
Kawaiinui and Hamakua Marsh Complex
Wetlands of International Importance

In October Governor Ige approved the Kawaiinui and Hamakua Master Plan Project Final Environmental Impact Statement (FEIS), which the Office of Environmental Quality Control (OEQSC) will then publish in the Environmental Notice.

Following OEQC publication of the Master Plan/FEIS the public has 60 days to appeal. If no appeal is initiated then everything contained in the Master Plan/FEIS can be implemented. This includes:

- Increasing visitors from the existing 2,500 a month to 9,050 visitors a month,
- Building a 5,600 sq ft Education Center on Kapa'a Quarry Road and a 1,740-gallon septic system with a 1,500 sq ft leach field,
- Kauahule area, adjacent to the Education Center, will have eight structures totaling approximately 8,250 sq ft,
- Erecting nine buildings equaling 9,600 sq ft at the Kapa'a Cultural Center on Kapa'a Quarry Road, which includes a caretaker's house and a 500-gallon septic tank with a 600 sq ft leach field. This facility will be open by invitation only,
- Building three buildings with a 7,000 sq ft floor area at Wai'auia Cultural Center located at the entrance to Kailua. This facility will be open by invitation only,
- Creating two new office buildings with a new restroom at the Kapa'a area, the Department of Fish and Wildlife (DOFAW) maintenance station behind Castle Hospital,
- Building 3.51 miles of trails, seven parking lots, a new boardwalk along Kapa'a Quarry Road.

The approximately 1,000-acre Kawaiinui Marsh, located in what was once the center of a caldera of the Koolau shield volcano in Kailua, is the largest remaining emergent wetland in Hawai‘i, and the largest ancient freshwater fishpond.

In 1979 the Kawaiinui Marsh Archaeological District was declared eligible for listing on the National Register of Historic Places. According to its determination, "Kawaiinui Marsh is important as a major component of a larger cultural district which would include...the ponding/wet agricultural area...remains of extensive terracing systems, ceremonial sites, burial sites, and habitation areas associated with this agricultural complex."

In 2005 the Ramsar Convention on Wetlands accepted Hawaii's Thousand Friends and National Audubon Society's application and designated Kawaiinui and Hamakua Marsh Complex as a Wetland of International Importance. The Ramsar Convention is an intergovernmental treaty that provides the framework for national action and international cooperation for the conservation of rare or unique wetlands that are important to conserving biological diversity.

The wetland complex provides habitat for four endemic Hawaiian waterbirds listed as endangered under the U.S. Endangered Species Act: the Hawaiian Coot or alae ke o e o, Hawaiian Moorhen or alae ula, and Hawaiian Stilt or kukukule o (ae o). The Hawaiian Duck is listed as Endangered and the Hawai‘i Coot as Vulnerable on the IUCN Red List of Threatening Species (IUCN, 2004) and is critical for maintaining the biological diversity of this biogeographic region.

Kawaiinui provides a migration path from the ocean to mountain streams for indigenous and endemic amphipod crustacean and crustaceans including indigenous gobies, endemic gobies, endemic eleotrid, and endemic shrimp.

Hawaii’s Thousand Friends believes that only a fully restored and functioning Kawaiinui Marsh, which provides an abundance of wetland habitat and protection for Hawai‘i’s endangered waterbirds and migratory birds, whose water quality is as clean and pure as possible, has adequate water to provide sufficient waterbird habitat and facilitates native amphipod and crustaceans migration, actively protects known archaeological sites and seeks to discover as yet un unearthed historical and archaeological sites, and is a secure and safe place to visit, can host a limited number of people and the development planned to accommodate them.

Mauka to Makai (continued from pg. 3)

and agriculture (1,928,034 acres) are the largest classified area (1,928,034 acres) are the largest classified

Our longtime Thousand Friends board member, Dr. Carl Christensen, has had an illustrious career as a land use and environmental attorney, a law professor, and a staff of the United States Senate. He also has worked tirelessly behind the scenes to find, protect, and classify the land snails of Hawai‘i and the Pacific. He is a scientist and curator of Bishop Museum’s uniquely valuable collection.

Now an endemic snail has been named after him, Endodonta christnseni.

Mauka to Makai

and agriculture (1,928,034 acres) are the largest classified areas associated with this agricultural complex."

Congratulations Dr. Carl C. Christensen

Endodonta christnseni, the last surviving of 11 species endemic to the Hawaiian islands, was first discovered in 1923 on the outlying Hawaiian Island of Nihoa and not reported again until 1980 by Dr. Christensen. As the October 15, 2020 Bishop Museum Occasional Paper reads: "Giving this species a name puts it on track for conservation and other Hawaiian land snails will begin to receive the increased management resources needed to conserve them in the face of the ongoing biodiversity crisis. Unless protection of this species is implemented, it may be extinct within the next decade and we will lose the last of a lineage that existed for millions of years, and the stories it could tell." Congratulations, Carl!
As we shelter in place and embrace where we live let us not forget to preserve and protect our greater home, our ‘āina.

The struggle is uphill. Shoddy decision-making multiplies. Threats to the environment mount. Consider renewing your membership and giving a gift of membership to a friend or family member as we continue to testify, analyze, and advocate in the public interest.

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