

FAITH ACTION FOR COMMUNITY EQUITY; PACIFIC RESOURCE PARTNERSHIP; and MELVIN UESATO,

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Intervenors - Defendants.

After briefing, hearing, and disposition of this case on the merits, see 5 HonoluluTraffic.com v. Fed. Transit Admin., 2012 WL 1805484 (D. Hawaii 2012) 6 (partial grant of summary judgment); Order on Cross-Motions for Summary Judgment, 7 filed Nov. 1, 2012 ("Summary Judgment Order"), the parties and the court addressed the 8 appropriate remedy. The parties submitted additional briefing on the scope of any 9 remedies, including any equitable relief. The remedy phase was fully argued and heard 10 on December 12, 2012. After due consideration of those arguments, briefs, and the 11 record, the court now enters its final Judgment, which shall include partial injunctive 12 relief, as set forth below. 13

As reflected in its prior orders, the court granted summary judgment to Plaintiffs 14 on three of their § 4(f) claims – claims arising under § 4(f) of the Department of 15 Transportation Act, 49 U.S.C. § 303. The court granted summary judgment to 16 Defendants on all other claims raised by Plaintiffs, which include Plaintiffs' remaining § 17 4(f) claims, all claim arising under the National Environmental Policy Act, 42 U.S.C. § 18 4321 et seq., and all claims arising under § 106 of the National Historic Preservation Act, 19 16 U.S.C. § 470f. In entering its partial permanent injunction, the court has considered 20 the well-recognized equitable factors that apply, see, e.g., Monsanto Co. v. Geertson Seed 21 Farms, 130 S. Ct. 2743, 2756 (2010), and finds that, to the extent Defendants actions are 22 enjoined, the four-factor test, on balance favors Plaintiffs, including: (1) irreparable 23 injury: (2) the inadequacy of monetary relief; (3) the balance of hardships; and (4) the 24 public interest. 25

IT IS, THEREFORE, ADJUDGED that this matter is remanded to the Federal
 Transit Administration, but without vacatur of the Record of Decision, to comply with the
 court's Summary Judgment Order.

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DEFENDANTS, their officers, agents, servants, employees, and attorneys; and all 1 other persons who are in active concert or participation with them, are hereby restrained 2 and enjoined from conducting any construction activities and real estate acquisition 3 activities in Phase 4 of the Honolulu High-Capacity Transit Corridor Project (the "Rail 4 Project"). This injunction on Phase 4 construction activities shall terminate 30 days after 5 Defendant Federal Transit Administration files with the court notice of Defendants' 6 compliance with the Summary Judgment Order and evidence of such compliance, unless 7 Plaintiffs file an objection within said 30-day period specifying how the Federal Transit 8 Administration has failed to comply with the Summary Judgment Order. If such 9 objection is timely filed, this injunction shall remain in effect pending the court's 10 resolution of Plaintiffs' objection(s). 11

This injunction shall not prohibit, and Defendants may prepare, Phase 4
engineering and design plans, conduct geotechnical training, and conduct other preconstruction activities, including any activities that are appropriate to complete the
additional analysis required by the Summary Judgment Order. This injunction shall not
apply to Phases 1 through 3 of the Rail Project.

Within 150-180 days of the issuance of this Judgment, and every 90 days
thereafter, Defendants shall file a status report setting forth the status of Defendants'
compliance efforts with the terms of the Summary Judgment Order. Either by stipulation
of all parties or upon noticed motion, Defendants may apply to except any activity
otherwise prohibited by this injunction from its terms.

In the exercise of its discretion, the court determines that each party shall bear itsown costs.

24 Dated: December 27, 2012.

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/s/ A. Wallace Tashima United States Circuit Judge Sitting by designation