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**UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII**

HONOLULUTRAFFIC.COM; CLIFF SLATER; BENJAMIN CAYETANO; WALTER HEEN; HAWAII'S THOUSAND FRIENDS; THE SMALL BUSINESS HAWAII ENTREPRENEURIAL EDUCATION FOUNDATION; RANDALL W. ROTH; and DR. MICHAEL UECHI,

Plaintiffs,

vs.

FEDERAL TRANSIT ADMINISTRATION; LESLIE ROGERS, in his official capacity as Federal Transit Administration Regional Administrator; PETER M. ROGOFF, in his official capacity as Federal Transit Administration Administrator; UNITED STATES DEPARTMENT OF TRANSPORTATION; RAY LAHOOD, in his official capacity as Secretary of Transportation; THE CITY AND COUNTY OF HONOLULU; and WAYNE YOSHIOKA, in his official capacity as Director of the City and County of Honolulu Department of Transportation,

Defendants,

CV No. 11-0307 AWT

**JUDGMENT AND
PARTIAL INJUNCTION**

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

Intervenors - Defendants.

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

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

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

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

This injunction shall not prohibit, and Defendants may prepare, Phase 4 engineering and design plans, conduct geotechnical training, and conduct other pre-construction 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 its own costs.

Dated: December 27, 2012.

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