

PRESS RELEASE

The Defendants in our rail lawsuit just filed a motion for judgment on the pleadings (Defendants' Motion). The Motion may be most notable for what it fails to say and do. Several examples:

- Our lawsuit alleges that the Defendants violated the National Environmental Policy Act (NEPA) by failing properly to consider alternatives to the project. The Defendants' Motion does not dispute those claims. So no matter what happens with the Motion, our NEPA claims will go forward.
- Our lawsuit alleges that the Defendants violated Section 4(f) of the Department of Transportation Act by improperly approving a project that will harm historic resources even though other reasonable and prudent alternatives and mitigation measures exist. The Defendants' Motion does not dispute those claims. So no matter what happens with the Motion, our Section 4(f) claims regarding alternatives will go forward.
- Our lawsuit alleges that the defendants violated the National Historic Preservation Act (NHPA) by failing to identify—and mitigate impacts to—historic resources before approving the project. The Defendants' Motion does not dispute those claims. So no matter what happens with the Motion, our NHPA claims will go forward.

The Defendants' Motion does make several claims, all of which lack merit.

- The Defendants' Motion claims that we waived certain of our arguments regarding the historic nature of the resources that would be damaged by the Project by failing to raise those concerns before the issuance of the Record of Decision. For example, the Motion claims that the Defendants were never aware of any concerns about the historic nature of the Aloha Tower or potential impacts to the Tower associated with the project. This is inaccurate: Numerous comments on the EIS expressed concerns about views of the Aloha Tower. This claim also shows just how out of touch the Defendants really are: virtually everyone knows that the Aloha Tower is historic, and if the FTA and the City and County of Honolulu need that fact to be reiterated they are the wrong people to be making decisions about major projects.
- The Defendants' Motion claims that some of the Plaintiffs did not properly raise their concerns before the issuance of the Record of Decision. This is both wrong and irrelevant. The Plaintiffs represent a broad coalition of community leaders who have consistently expressed their principled opposition to the Project and to the process by which the Defendants circumvented the law in order to get the Project approved. Moreover, the Defendants have already admitted that (1) Plaintiffs like Honolulutraffic.com and Hawaii's Thousand Friends properly and timely raised concerns about the project and (2) by law, the lawsuit must therefore proceed.

In short, the Motion will not prevent our lawsuit from going forward and, in any event, is devoid of substantive merit. We consider it frivolous ... a waste of the court's time and the taxpayers' money.