Kalaupapa Working Group
December 13, 2021
Agenda

● Recap of Process & October 25 Meeting
● Updates
  ○ Transition Team
  ○ General Lease
● Establish a Mutual Understanding of Section 106 Parking Lot Issues
● Revisit Programmatic Agreement
  ○ Goal: Avoid adverse impacts to beneficiaries by giving beneficiaries a seat at the table and more oversight of the process & answer current questions
  ○ Identify Adverse Impacts to Beneficiaries & Potential Collaboration Options
● Identify Group Composition & Areas of Discussion for Broader Community Convenings
  ○ Identify how we will move forward
● Next Steps
Ground Rules

- Be respectful of other participants’ mana‘o, please do not interrupt
- Please be aware of the air you take up in the room
- Respect the viewpoint of others: non-agreement can be a respectful process
- Do your best to be an active listener and a thoughtful participant
- Please remember to mute yourself when not speaking to help minimize background noise
- Be understanding of those who are juggling multiple responsibilities (childcare, schooling, kupuna care, etc.)
Process Recap & Looking Ahead

- 3rd meeting of 3 process focused meetings
- Goal for Today: Arrive at understanding of composition of group and focus of broader conversation with beneficiaries re: Kalaupapa

Looking Ahead

- Time for staff to do research / follow-up
- Further meetings will be opened up and focus on substance
  - Tentatively have series of 3 meetings in mind
  - First meeting will be held by March 2022
Recap of 10/25

Process

- Purpose of this WG is to better integrate beneficiary voices into Kalaupapa process
- Letters to be sent to this group as folks deeply involved in advocacy for Kalaupapa to help us shape process
- Will record and send link of recordings to participants

Issues

- Programmatic Agreement -- adverse impacts to beneficiaries
  - EIS should have been required
- Concerns with Tourism -- who benefits?
  - Process for negotiation?
- Another Track Focused on Taking Park Back from NPS -- options for beneficiaries on Moloka‘i
  - Includes engaging on the political level
- Proposal for Kalawao County to be under Maui County
- Structural Barriers -- AGs look out for the State; not necessarily beneficiaries
  - Opportunity for beneficiaries to directly connect with the Commission?
  - Questions on whether terms of lease delivery on DHHL’s fiduciary responsibilities
  - Need for independent legal advice (i.e. students; Ka Huli Ao; Malia?)
- Need to Prepare for When the Last Kupuna Passes -- what will things look like?
- NPS a Bad Manager of Kalaupapa -- irresponsible
  - Structural issue as well
Transition Team Updates & Discussion

Updates

- Agencies participating: DHHL, DOH, DLNR, DOT, NPS, DOI-ONHR, Co. of Maui
- Group meets quarterly
- Current discussions focus on logistics
- Topics include
  - Telephone, internet, electrical system
  - Water system
  - CoM-DOH Mutual Aid Agreement
  - Essential Air Service/Mokulele Schedule
  - Airport staffing / Firefighting capability
  - COVID-9 Emergency Rules
  - NPS Staffing Issues
  - Annual Barge
  - Above Ground Fuel Station
  - Solid Waste Management
  - Cesspool conversions
  - Management of Conservation Resources
- Department will separately be meeting with:
  - DOH
  - NPS Superintendent (12/1)

Discussion

- So there is a “list” of kuleana
- So the group is more ministerial. Are there conversations taking place on the jurisdictional and political issues?
- Will community members be involved?
  - Interagency
  - Trying to figure out best way to do that
  - Haven’t figured that out yet
  - Above our paygrade
    - Up to directors, reps, Mayor, Council, Leg
  - Why we started WG meetings - talk with beneficiaries
Discussion

- Current goal of these convos: What is a good process to better manage and integrate Kalaupapa into the larger island and beneficiary community
  - What are possible tracks for future discussion with the larger group?
- Meetings in response to request after experiencing NPS’s activities
  - DHHL landowners but don’t have resources to manage > fed
- Afraid convo may divide community
- Need a concerted approach
  - Not to benefit USA
  - Benefit beneficiaries and the Dept
- Mix short and long term for benefit of all

- Potential Tracks
  - Take back Kalaupapa for Hawaiians?
  - Work with NPS
    - Cooperative agreements with NPS?
  - Other?

- Potential Scenarios
  - Lease until 2041 - not a renewal
    - Work with NPS
  - Come up with plan as beneficiaries
    - Where get $ from?
    - Focus on lease and engaging beneficiaries
    - Maui County as one route
    - Willing to file lawsuit to show violation of lease
    - Terminate lease sooner

- Potential Approach
  - Short term?
    - Working with NPS
      - DHHL?
      - Community (Elroy)
  - Long term?
    - Take back
      - DHHL
      - Community (Walter)
Discussion

Short Term

● Beneficiary led
● DHHL create list to show how what beneficiaries want is supported in plans and other docs

Mid Term

● DOH transition out
● Kalawao jurisdictional issue
  ○ All of peninsula > DHHL

Long Term?

● Molokaʻi driven and stewarded
  ○ Molokaʻi County?
● DHHL help create a plan to show what beneficiaries envision Kalaupapa should look like

Ka ‘Ohana -- both short/long term

● Share stories
● Descendants can connect
● Ancestors are remembered

Related issues

● Staff pushing Commissioners
  ○ Open to anyone
● Staff keep fighting for proper funding
  ○ Way to get community to see DHHL as something they gotta protect
● How to get HACBED help for community so they don’t only work for the Dept > help community organize
Looking Ahead

- **Output: Plan**
  - Frame:
    - Short: work with Park
    - Mid
    - Long: Beneficiaries steward Park
  - Vision
  - Start of an operational/financial plan

- **Outreach**
  - Lori work with homestead groups

- **Timeline**
  - 2022 - 4 meetings with DHHL
    - HACBED help coordinate meetings
    - DHHL help to organize
    - Funding
    - Political

- **How big should the group get?**
  - Not wide yet
    - Stick with list that Commissioners approved
    - Lineal descendants
      - Ka ‘Ohana
    - Beneficiaries
      - Keani
      - Commissioner Helm
      - One representative for each ‘ohana?

  - Lori/Elroy/Walter/Halealoha meet and get back to the group in Jan

- **How should we convene?**
Next Steps

- Lori/Elroy/Walter/Halealoha figure out how they are going to do beneficiary outreach and get back to the KBWG group
- KBWG group + Keani, Commissioner Helm, Monica (Monday, 1/24, 6-8pm) -- agenda
  - Who should be invited + how to do outreach
  - Info updates based on requests (i.e. General Lease, Transition)
  - Get feedback on draft agenda for broader community mtgs

  ■ Short term
    - Section 106 Parking lot issues
    - Programmatic Agreement issues

  ■ Long term
    - Broader vision for Kalaupapa
# General Lease Updates & Discussion

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<thead>
<tr>
<th>Updates from the Department</th>
<th>Discussion</th>
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<tr>
<td>● Department reached out to Malia Akutagawa who will have more time to review the GL at the end of the semester</td>
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<td>● Clarity on legal advice the Department is seeking</td>
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<td>○ AG -- fulfill state responsibilities as a state dept</td>
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<td>○ Ka Huli Ao -- determine whether the terms of the lease are in the best interest of beneficiaries</td>
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<td>● Initial responses to questions regarding the lease</td>
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Updates from the Working Group?
Establish a Mutual Understanding of Section 106 Parking Lot Issues

- Issues with NPS’ Cultural Landscape Report not consulting with cultural practitioners
- (Under)Staffing
- Community Advisory Group with “teeth”
- Want more transparency re: Interagency Transition Working Group meetings
- Cultural land use, esp traditional farming in Waikolu Valley

- Would “gathering” also include hunting?
- Release of 35 comment letters submitted to NPS on GMP EA
- Is it NPS’s position that it will not invest more funds into DHHL lands prior to 2041 lease expiration date unless DHHL extends its lease with NPS in 2021, 20 years?
- Summary & clarification of adverse effects list -- effects that exist now & causing significant adverse effects to historic properties (e.g. “benign neglect”)
- Future of Kalawao County/Plans for Kalaupapa after 2041
NPS Letter of Intent (LOI)

Past Superintendent shared intent to continue to work on broader issues identified by the public and beneficiaries through General Plan Process -- starting points for ongoing dialogue:

- DHHL-NPS agreement re: future operations
- Traditional & customary access for farming, cultural practices, and subsistence gatherings within the park boundaries
- Explore potential role of a Tribal Historic Preservation Officer
- Consider proposal to develop a Community Hui
- Jointly develop & present a DHHL-NPS General Lease “primer” to beneficiaries that clarifies the terms of the lease and roles/responsibilities
- Identify & jointly address beneficiary issues regarding Kalaupapa

- Research application of Coastal Zone Management regulations to Kalaupapa
- Develop strategies to improve communication and consultation with beneficiaries
- Enter conversations re: concept of homesteading opportunities consistent with current plans
- Begin conversations to address concerns re: visitation and visitor orientation, particularly as DOH reduces its role in visitor use management
- Continue commitment to work with Ka ‘Ohana O Kalaupapa on a variety of operational issues
  - Completion of Kalaupapa Memorial project
  - Recognizes obligations of Ka ‘Ohana & DLNR to address regulatory & policy requirements
Section 106 Parking Lot Issues Discussion...
Revisit Programmatic Agreement (PA)

Table of Contents

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  ○ Reporting and Annual Review
  ○ Emergency Actions
  ○ Dispute Resolution
  ○ Termination and Amendment
  ○ Duration of this Agreement
  ○ Anti-Deficiency Act

Overview

● Department is an invited signatory to the PA
● Department is going to be engaging with NPS and new leadership and wants to avoid adverse impacts to beneficiaries by giving beneficiaries a seat at the table and more oversight of the process
  ○ Identify Adverse Impacts to Beneficiaries
  ○ Identify Potential Collaboration Options
● Department open to answering questions and curious to see if it is worthwhile to walk through the PA with the larger group
PA - Staffing

- Cultural Resources Management Team to fulfill Nationwide PA requirements
- Park will strive to develop a team with historic preservations experience in Hawai‘i
- NPS to develop training/recruitment for Native Hawaiians

Thoughts? Concerns?
PA - Community Engagement

- Establish community engagement program within 1 year of PA execution as a regular program
- Purpose -- enhance communication among place-based community members and the NPS
  - Opportunities for feedback to NPS
- Bi-annual meeting schedules with Concurring Parties re: activities identified or related to this PA
  - 1 mtg in Kalaupapa as feasible
- Establish a Community & Public Engagement Newsletter w/in 1 year of PA execution
  - Relay info related to culture, values, histories that are important to current patients
  - Update Concurring Parties on park projects/efforts
- Partnerships
  - Cultivate, establish, enhance, and maintain a range for long-term stewardship
  - Regularly liaise with DHHL re: input from beneficiaries re: PA scope

Discussion
PA - Streamlined Review Process / Standard Review

- Criteria for using the Streamlined Review Process
  - CRM Team that meets Nationwide PA req’ts
  - If property not formally listed or determined eligible for Nat’l Register -- Park will make eligibility determination
  - CRM Team will implement streamlined review process per Stip III.B in Nationwide PA -- Appendix A
  - CRM team will review projs for compliance -- Appendix D
  - Except for Stipp III.C.12 (Reburial of Human Remains and Other Cultural Items) NPS will follow streamlined Review Process
  - Standard Review Process for undertakings that do not meet streamlined review criteria
  - Annual Report

- Discussion

- If not subj to Streamlined -- Standard Review
PA - Projects Proposed by Others, Inadvertent Discoveries

- Projects Proposed by Others
  - As NPS becomes aware, will make info avail to Consulting Parties
  - Properties not under NPS mgmt authority -- NPS may provide TA/review to avoid potential adverse effects

- Inadvertent Discoveries
  - Historical properties not NAGPRA related
  - NAGPRA related
PA - Reporting & Annual Review

- Annual Report to SHPO and CPS no later than 1 cal year following PA execution and every year after
  - Summarize activities
  - Review implementation
  - Determine whether amendments needed
- Shall include projects, plans, CRM team and qualifications, training, inventories, initiatives, potential amendments...
- Mtg with 75 days of Report lease with SHPO, DHHL, NHOs, CPs
- Report provided no less than 30 days prior to mtg
- Hard copies to residents and a meeting
  - Comments considered in Section 106
- May make available to the public
PA - Dispute Resolution, Termination & Amendment

● Dispute Resolution: If any party to the agreement disagrees, Park, DHHL, SHPO shall consult with objecting party
  ○ If cannot be resolved through consultation, forward documentation to Advisory Council on Historic Preservation (ACH)
  ○ 30 days
  ○ If AHCP does not provide comments in 30 days, Park may render a decision

● Amendment: Agreement in writing makes amendment effective day it is signed

● Termination: If within 90 days no consensus can be reached, any signatory may terminate PA upon written notification
  ○ If termination, NPS shall comply with Nationwide PA

Discussion
Areas to Follow-up On & Share with NPS?

Specific adverse impacts to beneficiaries?

Potential collaborative opportunities?
Looking Ahead

- Aiming to convene a series of 3 meetings with the broader community beginning in March 2022

- Thoughts on…
  - Areas of discussion?
  - Group composition?
Identify Areas of Discussion for Broader Community Convenings

Potential

- What to do after the last kupuna departs?
  - DOH’s responsibility will conclude
- Establish criteria for governance of Kalaupapa that centers beneficiaries?
- Clarify access for traditional uses?
- Clarify beneficiary access for commercial uses?
- Addressing other Section 106 Programmatic Agreement parking lot issues?
- Creating Cooperative Agreements?
- Other?

Update

- General Lease will be touched on at a high level but not in a detailed discussion
Identify Group Composition for Broader Community Convenings

Guidelines shared with the Commission:

- Beneficiaries on the Moloka‘i Island wait list
- Beneficiaries who have family members buried in Kalaupapa
- Lineal descendants of Native Hawaiian ‘ohana who were displaced from Kalaupapa in 1865
- Beneficiaries who have participated consistently in the NPS GMP and Section 106 process
- Beneficiary representative of Ka ‘Ohana O Kalaupapa

Questions

- Still make sense?
- Update?
Next Steps

- Share notes/recording
- Department research / follow-up
  - Financial situation
- Kick start 1st of 3 broader community meetings on substantive areas by March 2022