

Court Dismisses NEPA Claims in Transit Project Challenge

The Ninth Circuit has dismissed a NEPA challenge to the approval of the Honolulu Rail Transit Project, rejecting claims that agencies unreasonably restricted the Project's purpose and need and failed to consider all reasonable alternatives. [HonoluluTraffic.com v. FTA](#), No. 13-15277 (9th Cir., 2014) Nearly a decade ago, the City of Honolulu, along with the Federal Transit Administration and the U.S. Department of Transportation, embarked on a project to address Honolulu's severe traffic congestion. In 2005, the FTA published a notice of intent to prepare an Environmental Impact Statement under NEPA, and an alternatives analysis required by the DOT's funding program for transit service in Oahu. The City prepared the alternatives analysis and eliminated certain alternatives from consideration through the analysis' review process. The two federal agencies subsequently approved the EIS. Plaintiffs, a consortium of interest groups and individuals opposing the project, challenged the agencies' actions under NEPA and other federal statutes. On appeal, Plaintiffs made two claims under NEPA. First, they argued that the agencies violated NEPA by unreasonably restricting the project's purpose and need. The court found no basis for this claim: the statement of purpose and need was reasonable because it did not foreclose all alternatives and because it was shaped by federal legislative purposes. It was broad enough to allow the agency to assess various routing options and technologies for a high-capacity, high-speed transit project, and hence was sufficient under NEPA. Plaintiffs' other NEPA claim was that the agencies did not consider alternatives that had earlier been ruled out in the alternatives analysis conducted by the City. Plaintiffs contended that the EIS improperly relied on this process to exclude certain alternatives such as the light rail and high-occupancy vehicle lanes from detailed consideration. However, the court held that an agency does not violate NEPA by refusing to discuss alternatives already considered in prior studies conducted at the state level, as long the federal lead agency furnished guidance upon and independently evaluated the state document, and the analysis was conducted with public review and a reasonable opportunity to comment. These conditions were satisfied in this case, and hence the agencies did not violate NEPA by failing to discuss alternatives rejected in the state process.

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